

**CITY OF NEWPORT BEACH  
PLANNING COMMISSION AGENDA  
CITY COUNCIL CHAMBERS - 3300 NEWPORT BOULEVARD  
THURSDAY, JANUARY 17, 2013  
REGULAR MEETING – 6:30 p.m.**

**MICHAEL TOERGE**  
Chair

**BRADLEY HILLGREN**  
Vice Chair

**FRED AMERI**  
Secretary

**TIM BROWN  
KORY KRAMER  
JAY MYERS  
LARRY TUCKER**

**Planning Commissioners are citizens of Newport Beach who volunteer to serve on the Planning Commission. They were appointed by the City Council by majority vote for 4-year terms. At the table in front are City staff members who are here to advise the Commission during the meeting. They are:**

**KIMBERLY BRANDT, Community Development Director**

**BRENDA WISNESKI, Deputy Community  
Development Director**

**LEONIE MULVIHILL, Assistant City Attorney    TONY BRINE, City Traffic Engineer**

**NOTICE TO THE PUBLIC**

Regular meetings of the Planning Commission are held on the Thursdays preceding second and fourth Tuesdays of each month at 6:30 p.m. The agendas, minutes, and staff reports are available on the City's web site at: <http://www.newportbeachca.gov> and for public inspection in the Community Development Department, Planning Division located at 3300 Newport Boulevard, during normal business hours. If you have any questions or require copies of any of the staff reports or other documentation, please contact the Community Development Department, Planning Division staff at (949) 644-3200.

This Commission is subject to the Ralph M. Brown Act. Among other things, the Brown Act requires that the Commission's agenda be posted at least 72 hours in advance of each meeting and that the public be allowed to comment on agenda items before the Commission and items not on the agenda but are within the subject matter jurisdiction of the Commission. The Commission may limit public comments to a reasonable amount of time, generally three (3) minutes per person. All testimony given before the Planning Commission is recorded.

It is the intention of the City of Newport Beach to comply with the Americans with Disabilities Act (ADA) in all respects. If, as an attendee or a participant of this meeting, you will need special assistance beyond what is normally provided, the City of Newport Beach will attempt to accommodate you in every reasonable manner. Please contact Leilani Brown, City Clerk, at least 72 hours prior to the meeting to inform us of your particular needs and to determine if accommodation is feasible (949-644-3005 or [lbrown@newportbeachca.gov](mailto:lbrown@newportbeachca.gov)).

**APPEAL PERIOD:** Use Permit, Variance, Site Plan Review, and Modification Permit applications do not become effective until 14 days following the date of approval, during which time an appeal may be filed with the City Clerk in accordance with the provisions of the Newport Beach Municipal Code. Tentative Tract Map, Tentative Parcel Map, Lot Merger, and Lot Line Adjustment applications do not become effective until 10 days following the date of approval, during which time an appeal may be filed with the City Clerk in accordance with the provisions of the Newport Beach Municipal Code. General Plan and Zoning Amendments are automatically forwarded to the City Council for final action.

**NEWPORT BEACH PLANNING COMMISSION AGENDA  
CITY COUNCIL CHAMBERS – 3300 NEWPORT BOULEVARD  
THURSDAY, JANUARY 17, 2013  
REGULAR MEETING – 6:30 p.m.**

**I. CALL TO ORDER**

**II. PLEDGE OF ALLEGIANCE**

**III. ROLL CALL**

**IV. PUBLIC COMMENTS**

*Public comments are invited on non-agenda items generally considered to be within the subject matter jurisdiction of the Planning Commission. Speakers must limit comments to three (3) minutes. (Red light signifies when three (3) minutes are up; yellow light signifies that the speaker has one (1) minute left for summation.) Before speaking, please state your name for the record and print your name on the blue forms provided at the podium.*

**V. REQUEST FOR CONTINUANCES**

**VI. CONSENT ITEMS**

**ITEM NO. 1      MINUTES OF JANUARY 3, 2013**

**Recommended Action:** Approve and file

**VII. PUBLIC HEARING ITEMS**

*Speakers must limit comments to three (3) minutes on all items. (Red light signifies when three (3) minutes are up; yellow light signifies that the speaker has one (1) minute left for summation.) Before speaking, please state your name for the record and print your name on the blue forms provided at the podium.*

*If in the future, you wish to challenge in court any of the matters on this agenda for which a public hearing is to be conducted, you may be limited to raising only those issues, which you (or someone else) raised orally at the public hearing or in written correspondence received by the City at or before the hearing.*

**ITEM NO. 2      Zoning Code Amendment Single Room Occupancy Residential Hotels and Parking for  
Emergency Shelters (PA2012-179)  
Site Location: Citywide**

**Summary:**

Pursuant to Housing Element Program HP 5.1.7, a Zoning Code Amendment is proposed to include a definition of Single Room Occupancy (SRO) Residential Hotels and to add provisions that would allow SROs within the commercial and office zoning districts, subject to the approval of a conditional use permit. Additionally, the amendment includes a parking requirement for emergency shelters.

**CEQA Compliance:**

All significant environmental concerns for the proposed project have been addressed in a previously certified environmental document (Negative Declaration for the Housing Element Update adopted by City Council on November 22, 2011), and that the City of Newport Beach intends to use said document for the above noted project, and further that there are no mitigation measures that should be considered in conjunction with said project.

**Recommended Action:**

1. Conduct public hearing; and
2. Adopt Resolution No. \_\_\_\_ recommending City Council approval of Code Amendment No. CA2012-009.

**ITEM NO. 3 Residential Lot Merger Code Amendment (PA2012-102)**

**Site Location:** R-1, R-BI, and R-2 Zoning Districts of Balboa Island, Balboa Peninsula, Corona del Mar, Lido Isle, and West Newport

**Summary:**

An amendment to the Zoning Code (Title 20) and the Subdivision Code (Title 19) to modify residential development standards so that the merger/reconfiguration of two or more lots would not result in an increase in the maximum amount of floor area that could have otherwise been developed prior to the merger/reconfiguration. The proposed amendment would apply only where a parcel map, lot line adjustment, or lot merger results in an increase in lot width greater than 50 percent.

**CEQA Compliance:**

This item is categorically exempt under Section 15305, of the California Environmental Quality Act (CEQA) Guidelines – Class 5 (Minor Alterations in Land Use Limitations)

**Recommended Action:**

1. Conduct public hearing; and
2. Adopt Resolution No. \_\_\_\_ recommending City Council approval of Code Amendment No. CA2012-107.

**ITEM NO. 4 Existing City Hall Complex Reuse Amendments (PA2012-031)**

**Site Location:** 3300 Newport Boulevard and 475 32<sup>nd</sup> Street

**Summary:**

A proposal to amend the General Plan, the Coastal Land Use Plan, and the Zoning Code to change the land use and zoning designation from “Public Facilities” (PF) to allow mixed use development. The Zone Code amendment would also include use and development standards for future development including substantial public open space. The amendments collectively would create land use and zoning designations to facilitate a future mixed-use project that could include up to 99 apartments and up to 15,000 square feet of retail commercial area or up to 99,675 square feet of hotel uses. The amendments would also allow a combination of residential or hotel uses, and other municipal uses including a fire station. The proposed amendments do not include a specific development project at this time and future development would undergo subsequent public review.

**CEQA Compliance:**

A Negative Declaration has been prepared by the City of Newport Beach which states that, the subject development will not result in a significant effect on the environment. It is the present intention of the City to accept the Negative Declaration and supporting documents.

**Recommended Action:**

1. Conduct public hearing;
2. Adopt Resolution No. \_\_\_\_ recommending City Council adoption of the City Hall Reuse Project Initial Study/Mitigated Negative Declaration (SCH# 2012111074) including a Mitigation Monitoring and Reporting Program pursuant to the California Environmental Quality Act; and

3. Adopt Resolution No. \_\_\_\_\_ recommending City Council approval of General Plan Amendment No. GP2012-002, Coastal Land Use Plan Amendment No. LC2012-001, and Zoning Code Amendment No. CA2012-003.

**VIII. STAFF AND COMMISSIONER ITEMS**

**ITEM NO. 5      MOTION FOR RECONSIDERATION**

**ITEM NO. 6      COMMUNITY DEVELOPMENT DIRECTOR'S REPORT**

**ITEM NO. 7      ANNOUNCEMENTS ON MATTERS THAT THE PLANNING COMMISSION MEMBERS  
WOULD LIKE PLACED ON A FUTURE AGENDA FOR DISCUSSION, ACTION, OR  
REPORT.**

**ITEM NO. 8      REQUESTS FOR EXCUSED ABSENCES**

**IX. ADJOURNMENT**

**NEWPORT BEACH PLANNING COMMISSION MINUTES**  
**Council Chambers – 3300 Newport Boulevard**  
**Thursday, January 3, 2013**  
**REGULAR MEETING**  
**6:30 p.m.**

I. **CALL TO ORDER** – The meeting was called to order at 6:34 p.m.

II. **PLEDGE OF ALLEGIANCE** – Commissioner Toerge

III. **ROLL CALL**

PRESENT: Ameri, Brown, Myers and Toerge

ABSENT (Excused): Hillgren, Kramer and Tucker

Staff Present: Brenda Wisneski, Deputy Community Development Director; Leonie Mulvihill, Assistant City Attorney; Tony Brine, City Traffic Engineer; Gregg Ramirez, Senior Planner; Patrick Alford, Planning Manager; Jaime Murillo, Associate Planner; Makana Nova, Assistant Planner; Ruby Garciamay, Community Development Department Assistant

IV. **PUBLIC COMMENTS** - None

Chair Toerge invited those interested in addressing the Commission on items not on the agenda, to do so at this time.

Newport Beach resident, Jim Mosher commented that the audio recordings for the Planning Commission meetings should be accessible to the public through the city's website and that the audio recordings would be the most complete and accurate record available. Mr. Mosher expressed his concern of being unable to access the discussions from the December 20 Planning Commission meeting which included the Airport Land Use decision related to the Uptown Newport project.

There were no others wishing to address the Commission and Chair Toerge closed the Public Comments portion of the meeting.

V. **REQUEST FOR CONTINUANCES** - None

VI. **CONSENT ITEMS**

**ITEM NO. 1 MINUTES OF DECEMBER 20, 2012**

**Recommended Action:** Approve and file

Chair Toerge noted minor corrections to the minutes submitted in writing by Jim Mosher.

Interested parties were invited to address the Commission on this item. There was no response and public comments were closed.

**Motion** made by Commissioner Brown and seconded by Commissioner Myers and carried 4 – 0, to approve the minutes of the Planning Commission meeting of December 20, 2012, Regular meeting, as amended.

AYES: Ameri, Brown, Myers and Toerge  
NOES: None  
ABSTENTIONS: None  
ABSENT (Excused): Hillgren, Kramer and Tucker

## **VII. PUBLIC HEARING ITEMS**

### **ITEM NO. 2 Corporate Plaza PC Amendment (PA2012-145) Site Location: 2 and 3 Corporate Plaza**

Brenda Wisneski, Deputy Community Development Director advised the Commission that the applicant withdrew this application after the public hearing was noticed. No action required by the Planning Commission.

### **ITEM NO. 3 Wardy Residence (PA2012-140) Site Location: 1111 Dolphin Terrace**

Planning Manager Patrick Alford presented details of the project addressing the applicants request for approval of a Site Development Review to allow an increase in the boundaries of Development Area B for the purpose of constructing a pool and retaining walls in Development Area C. The application also includes a request for a Modification Permit to allow a retaining wall over 8 feet in height from finished grade. These improvements are proposed in conjunction with the construction of a new single family residence.

Chair Toerge questioned staff if illustrations of proposed landscaping that would soften the 30-foot-high wall adjacent to the pool were available.

Mr. Alford stated that the existing landscaping on the slope would screen most of the view of the wall as seen from below; also the wall would be perpendicular to Bayside Drive and not very visible from this angle.

Chair Toerge invited the applicant and those interested to address the Commission on this item.

Zachary Sham spoke in opposition, citing that the project has not been approved by the homeowners association and the height of the retaining walls should be lowered to 3 feet.

Commissioner Ameri questioned Mr. Sham if he saw a negative impact to the immediate neighbors or whole community by increasing the height of the wall.

Mr. Sham was concerned about the precedence the requested height was setting.

Dan Purcell stated that the impact to views from the water should be considered.

Jim Mosher spoke in opposition, citing that the project violated the intent of the Bluff Overlay.

Jessica Joiner spoke in opposition, stating that the property owner knew of the constraints of the property when he purchased it.

Amen Wardy, applicant, responded to the comments, stating that he purchased the property prior to the establishment of the Bluff Overlay.

Molly Brenner spoke in opposition, citing inconsistency with the CC&Rs, Bluff Overlay, and Coastal Act.

Andrew McIntyre spoke in opposition, stating that the Bluff Overlay development areas should be maintained.

Barbara Tapon spoke in opposition, citing inconsistency with the CC&Rs.

Chair Toerge questioned Mr. Wardy about the appearance of the retaining wall that is the subject of the Modification Permit, asking if there were any plans to soften its appearance with landscaping or other treatments.

Mr. Wardy responded that it would be very difficult to soften the appearance of the wall with landscaping because the swimming pool would be immediately adjacent.

Brief discussion followed regarding the location of the wall.

There being no others wishing to address the Commission, Chair Toerge closed the public hearing.

Commissioner Ameri inquired if it was normal procedure to present a project to the Commission without homeowners association or CC&R approval. He questioned the HOA's issue of inconsistency with the project and the height of existing walls over the 3 foot standard in the surrounding area as depicted on the aerial photo presented by staff. He also asked if staff has met with representatives from the homeowners association.

Mr. Alford reported that the City does not require homeowner association approval and does not enforce CC&Rs. He also stated that staff had not conducted a survey of the height of retaining walls on the adjacent properties.

Ms. Wisneski stated that she has met with the association's architect and neighbors to discuss their regulations. She added that she had observed retaining walls higher than 3 feet.

Chair Toerge felt that the project is consistent with City policies and is adhering to the prominent line of existing development, pointing out that this bluff is not subject to marine erosion and thought the project follows the spirit of the Zoning Code.

In response to an inquiry from Chair Toerge, Mr. Alford referenced conditions that required landscaping improvements to be consistent with the plans submitted and for the landscaping approved by the Community Development Director.

**Motion** made by Chair Toerge and seconded by Commissioner Brown and carried 4 – 0, to adopt a Resolution approving Site Development Review No. SD2012-005 and Modification Permit No. MD2012-017.

Commissioner Brown asked if the association has the ability to enforce their own rules.

Assistant City Attorney Mulvihill responded that typically CC&Rs give HOA's the right of enforcement for violation of their rules.

Commissioner Myers stated he will vote in favor of the applicant. A prominent line of development is established and saw no visual impact.

AYES: Ameri, Brown, Myers and Toerge  
NOES: None  
ABSTENTIONS: None  
ABSENT (Excused): Hillgren, Kramer and Tucker

**ITEM NO. 4 Plaza Corona del Mar (PA2010-061)**  
**Site Location: 3900 and 3928 East Coast Highway**

Associate Planner, Jaime Murillo, presented details of the applicant's request for approval of a horizontal mixed-use development with six detached dwelling units above a common subterranean parking structure, a 2,160-square-foot office addition above an existing 535-square-foot delicatessen (Gallo's Deli), and a 10-space shared surface parking lot. Mr. Murillo summarized the Planning Commission's recommendation from the prior meeting to possibly waive one residential guest parking space and require that the 10-space ground level parking lot be used exclusively for commercial parking during the day. He then identified the issues that would result from a waiver. Specifically, the ground level guest parking space is a required van accessible parking space under the Building Code for the residential development and it cannot be waived as designed. He presented three options to the parking issue: the provision of signage to enforce the use of the parking spaces within the ground level lot as currently designed and two alternatives which would require the redesign and provision of a van accessible guest space and elevator within the subterranean parking structure. Mr. Murillo identified staff's recommendation to approve the first option, requiring additional signage to enforce the use of one residential guest space and nine commercial spaces during regular business hours (8am to 6pm) within the ground level parking lot, with no user restrictions after 6pm. Mr. Murillo presented two colored renderings provided by the project applicant that demonstrate the architectural details of the project including wood cedar siding, smooth stucco finish, and a unifying paint color palate. Mr. Murillo discussed the concept of retaining the existing Gallo's Deli structure during the construction of the proposed office addition above and proposed upgrade to the exterior façade. The existing Gallo's structure would maintain its signature blue awning on the East Coast Highway frontage as a character defining feature of the tenant.

Chair Toerge asked staff if comments from Commissioner Kramer were received. Assistant Planner, Makana Nova, reported that the Community Development Director had received his comments concerning the project design and architecture and indicated that staff believed his concerns had been adequately addressed in the staff report and the architectural elevations and colored renderings provided by the project applicant.

Brief discussion followed regarding parking. Commissioner Myers questioned if 9 spaces for the commercial uses was adequate and for clarification regarding the parking requirements. He commented that the Gallo's currently has parking available and his concern that no parking would be required per the existing Specialty Food Permit.

In response to the comment from Commissioner Myers, Mr. Murillo addressed parking issues and the adequacy of 9 spaces for commercial. He also clarified that three additional on-street parking spaces would be provided in addition to the two existing on-street spaces.

Commissioner Myers also expressed concerns with site drainage and inquired if staff had considered site drainage in their review of the project.

Ms. Nova noted that a preliminary Water Quality Management Plan (WQMP) had been conducted and would be finalized during the plan check process. Mr. Murillo further stated that a WQMP provides information addressing retention of storm water to the maximum extent feasible and treatment of water prior to release.



Chair Toerge invited the applicant and those interested to address the Commission on this item.

Magdi Hanna, property owner and applicant, stated he wanted to preserve the existing Gallo's structure for the nostalgic value that it brings to the community. He indicated that he would like to maintain the essence of Gallo's and keep the delicatessen open during project construction.

Marcello Lische, project architect, further explained the site drainage indicating that permeable surfaces including project landscaping would improve site drainage. Additionally, hard surfaces would drain onto East Coast Highway. There is an existing storm drain on-site that would be relocated by the project. Additional water would flow on-site to the relocated storm drain, then underneath East Coast Highway to Buck Gully and the ocean beyond through the existing storm drain system.

Corona del Mar resident, Dan Purcell, commented on the portion of recently vacated alley, indicating his preference that the City would have collected a fee from the property owner in exchange for this property. He commented on the plain stucco walls of the proposed project and encouraged maintaining the view corridor down Buck Gully.

There being no others wishing to address the Commission, Chair Toerge closed the public hearing.

In response to an inquiry from Commissioner Brown, Mr. Murillo indicated that Code Enforcement could enforce parking. On-site signage would indicate the intended use of the ground level parking spaces and the property owner and commercial tenants would have the ability to tow offending vehicles. Code Enforcement is a complaint based program and has the ability to investigate the problem should issues be brought to the City.

Commissioner Brown commented positively with relevance to keeping Gallo's blue awning as a character defining feature. He commended the applicant's efforts to maintain the existing structure for nostalgic reasons rather than for monetary gain.

Chair Toerge agreed with Commissioner Brown and indicated that the parking issues have been addressed by staff in the report.

Chair Toerge questioned staff regarding Condition 19 and confusion with the word "Notwithstanding". He then suggested combining Conditions 17 and 19.

Mr. Murillo indicated that the provisions of the Zoning Code suggest overnight parking is prohibited. The intent of Condition 19 was to reinforce the parking use limitations of Condition 17 and further clarify that commercial overnight parking is prohibited while residential overnight parking would not be restricted for the project. The Commission agreed to maintain the current language of the conditions as drafted.

Commissioner Ameri questioned the small third floor windows fronting East Coast Highway and that the current design and plain stucco creates the look of a wall.

Mr. Lische stated there is room for improvement with the preliminary design. He indicated that the windows at the third floor are smaller because they open from the master bath at each unit.

Commissioner Myers commented that maintaining the exterior of the existing Gallo's structure would also result in the preservation of the interior of the tenant space.

**Motion** made by Chair Toerge and seconded by Commissioner Ameri and carried 4 – 0, to adopt a Resolution approving Conditional Use Permit No. UP2012-011, Modification Permit No. MD2012-011, Site Development Review No. SD2012-001, Tentative Tract Map No. NT2012-001, and Variance No. VA2012-002, subject to the findings and conditions in the staff report.

AYES: Ameri, Brown, Myers and Toerge  
NOES: None  
ABSTENTIONS: None  
ABSENT (Excused): Hillgren, Kramer and Tucker

**VIII. STAFF AND COMMISSIONER ITEMS**

**ITEM NO. 6 MOTION FOR RECONSIDERATION** - None

**ITEM NO. 7 COMMUNITY DEVELOPMENT DIRECTOR'S REPORT**

Ms. Wisneski suggested starting the February 7 Planning Commission meeting at 5:00 p.m. rather than 6:30 p.m. to allow adequate time to address the Uptown Newport Project and other applications. She will contact the Commissioners to confirm the meeting time.

She also reported that the letter received from Mr. Mike Sullivan concerning the Village Inn will be addressed.

**ITEM NO. 8 ANNOUNCEMENTS ON MATTERS THAT THE PLANNING COMMISSION MEMBERS WOULD LIKE PLACED ON A FUTURE AGENDA FOR DISCUSSION, ACTION, OR REPORT**

Chair Toerge asked staff to address Mr. Mosher's suggestion to make the Planning Commission audio minutes available on the City's website.

**ITEM NO. 9 REQUESTS FOR EXCUSED ABSENCES** - None

**IX. ADJOURNMENT**

There being no further business to come before the Planning Commission, the meeting was adjourned at 7:54 p.m.

The agenda for the Regular Meeting was posted on December 21, 2012, at 3:20 p.m. on the City Hall Bulletin Board located outside of the City of Newport Beach Administration Building.

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Michael Toerge, Chairman

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Fred Ameri, Secretary

ADDITIONAL  
MATERIALS  
RECEIVED

## Comments on Draft Minutes of January 3, 2013 PC Meeting

The following suggested changes to Item 1 on the January 17, 2013, Newport Beach Planning Commission agenda are submitted by: Jim Mosher ( [jimmosher@yahoo.com](mailto:jimmosher@yahoo.com) ), 2210 Private Road, Newport Beach 92660 (949-548-6229)

Page 2:

First line under Item 3: "... addressing the ~~applicants~~ applicant's request ..."

Fifth paragraph from end: "Mr. Sham was concerned about the ~~precedence~~ precedent the requested height was setting."

Page 3:

Sixth paragraph from end: "... adhering to the ~~prominent~~ predominant line of existing development ..."

Final sentence: "A ~~prominent~~ predominant line of development is established and he saw no visual impact."

Page 4:

Fourth line from end of long paragraph: "... and a unifying paint color ~~palate~~ palette."

Fourth paragraph from end: "He commented that ~~the~~ Gallo's currently has parking available ..."

Final paragraph: "... a preliminary Water Quality Management Plan (WQMP) had been ~~conducted~~ prepared (?)..."

Page 5:

Seventh paragraph: "Commissioner Brown commented positively ~~with relevance~~ relative to keeping Gallo's blue awning ..."

Page 6:

Motion at top of page: I am not suggesting any change to the minutes, but I believe the audio recording might reveal the motion that was voted on actually included a reference to "Variance No. VA2012-007," since that was the wording of the recommended action on the agenda and in the staff report. I believe "Variance No. VA2012-002," per the resolution which I assume was signed, and the draft minutes, is correct. I might further comment that it remains unclear to me if a "variance" exists as a separate numbered document (or file of documents?) apart from the resolution, and if so what that document looks like or where it can be inspected. If it is separate, it would seem important that the Commissioners (and public) be able to review it to know for sure what is being approved.

**CITY OF NEWPORT BEACH  
PLANNING COMMISSION STAFF REPORT**

January 17, 2013  
Agenda Item No. 2

**SUBJECT:** Zoning Code Amendment Single Room Occupancy Residential Hotels  
and Parking for Emergency Shelters - (PA2012-179)  
▪ Code Amendment No. CA2012-009

**APPLICANT:** City of Newport Beach Planning Division

**PLANNER:** Melinda Whelan, Assistant Planner  
949-644-3221, mwhelan@newportbeachca.gov

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**PROJECT SUMMARY**

Pursuant to Housing Element Program HP 5.1.7, a Zoning Code Amendment to re-insert a definition of Single Room Occupancy (SRO) Residential Hotels and to add provisions that would permit SROs within the commercial and office zoning districts with the approval of a conditional use permit. Additionally, the amendment is to provide general parking standards for emergency shelters. Both were inadvertently excluded in the 2010 Zoning Code Update.

**RECOMMENDATION**

- 1) Conduct a public hearing; and
- 2) Adopt the draft resolution recommending City Council approval of the Zoning Code Amendment No. CA2012-2009 regarding Single Room Occupancy (SRO) Residential Hotels and parking for Emergency Shelters (Attachment No. PC 1).



## **DISCUSSION**

### **Single Room Occupancy (SRO) Residential Hotels**

#### *Background*

During the 2010 Zoning Code update the definition and provisions for SRO's were inadvertently left out. Therefore, the City included Housing Program HP 5.1.7 in the adopted 2008-2014 Housing Element:

***"Housing Program 5.1.7 Amend the Zoning Code to include a definition of Single Room Occupancy (SRO) Residential Hotels and add provisions that would permit SROs within the commercial and office zoning districts with the approval of a use permit. No standard set of conditions or use restrictions on SROs shall be established; instead, each application should be evaluated individually and approved based upon its own merits and circumstances."***

#### *Proposed Amendment*

Implementation of HP 5.1.7 requires the following SRO definition is added to Chapter 20.70.020 Definitions of Specialized Terms and Phrases under *Visitor Accommodations*:

***"No. 6. Single Room Occupancy, Residential Hotels (SRO) **SRO:** (HUD definition): Buildings with six or more guest rooms without kitchen facilities in individual rooms, or kitchen facilities for the exclusive use of guests, and which are also the primary residences of the hotel guests."***

Add SRO as a use permitted with a Conditional Use Permit (CUP) within Section 20.20.020 Commercial Zoning Districts Land Uses and Permit Requirements in Tables 2-4 and 2-5 under all of the Office and Commercial Districts. These changes are found in Attachment No. PC1 in Exhibit A.

### **Emergency Shelters**

#### *Background*

In 2008 the state enacted SB2 which provides legislation that requires the City to designate zoning districts where emergency shelters (homeless shelters) will be allowed without requiring a use permit or other discretionary review. The Zoning Code provides two zoning districts, Private Institutions (PI) and Office-Airport (OA), which allow emergency shelters by right. Section 20.48.100 also establishes specific development standards. Parking requirements are referenced in 20.40.040, Table 3-10. However, parking for Emergency Shelters states "As required by conditional use permit". This is an inconsistency since emergency shelters are permitted by right with the PI and OA zoning districts.

*Proposed Amendment*

Based on the inquiries with homeless service providers, it is the consensus that many of the homeless they serve possess a vehicle. Staff conducted research with several cities within Orange County and found a typical parking standard to be 1 space per 4 beds plus 1 per staff. If the shelter i/s designed with rooms designated for family units then ½ a parking space per bedroom for these family units is consistent with the needs of the emergency shelter use. Staff has added these standards for the Emergency Shelter Use within Table 3-10 (Attachment No. PC 1 Exhibit A).

Environmental Review

All significant environmental concerns for the proposed project have been addressed in a previously certified environmental document (Negative Declaration for the Housing Element Update adopted by City Council on November 22, 2011), and that the City of Newport Beach intends to use said document for the above noted project, and further that there are no mitigation measures that should be considered in conjunction with said project. Copies of the Negative Declaration for the 2008-2014 Housing Element Update are available for public review and inspection at the Planning Division in the Community Development Department or at the City of Newport Beach website under archived documents: <http://www.newportbeachca.gov/cegadocuments>.


Public Notice

Notice of this application was published in the Daily Pilot on January 4, 2012, consistent with the provisions of the Municipal Code. Additionally, the item appeared on the agenda for this meeting, which was posted at City Hall and on the City website.

Prepared by:

  
Melinda Whelan  
Assistant Planner

Submitted by:

  
Brenda Wisneski, AICP, Deputy Director

**ATTACHMENTS**

PC 1 Draft Resolution including Exhibit A

: 07/31/12



# **Attachment No. PC 1**

Draft Resolution including Exhibit A



## **RESOLUTION NO. ####**

### **A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH RECOMMENDING CITY COUNCIL APPROVAL OF ZONING CODE AMENDMENT NO. CA2012-009 REGARDING SINGLE ROOM OCCUPANCY RESIDENTIAL HOTELS AND PARKING FOR EMERGENCY SHELTERS (PA2012-179)**

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

#### **SECTION 1. STATEMENT OF FACTS.**

1. In 2008 the state enacted SB2 which provides legislation that requires the City to designate zoning districts where emergency shelters will be allowed without requiring a use permit or other discretionary review.
2. The City adopted a comprehensive update of the Zoning Ordinance in October of 2010. The definition and Zoning Districts where Single Room Occupancy (SRO) Residential Hotels are allowed and a parking standard for emergency shelters were inadvertently excluded.
3. The 2008-2014 Housing Element includes Housing Program HP 5.1.7 committing the City to define SRO's within the Zoning Ordinance and permit SROs within the commercial and office districts as previously provided for; and identified that the City complies with the requirements of SB2. The 2008-2014 Housing Element included a certified Negative Declaration approved by City Council on November 22, 2011.
4. The Planning Commission conducted a public hearing on January 17, 2013, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting.

#### **SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.**

That all significant environmental concerns for the proposed project have been addressed in a previously certified environmental document (Negative Declaration for the Housing Element Update adopted by City Council on November 22, 2011), and that the City of Newport Beach intends to use said document for the above noted project, and further that there are no mitigation measures that should be considered in conjunction with said project. Copies of the Negative Declaration for the 2008-2014 Housing Element Update are available for public review and inspection at the Planning Division in the Community Development Department.

**SECTION 3. FINDINGS.**

1. Amendment implements HP 5.1.7 by amending the Zoning Code to include a definition of Single Room Occupancy (*SRO*) Residential Hotels and add provisions that would permit SROs within the commercial and office zoning districts with the approval of a conditional use permit.
2. Establishes a reasonable parking requirement for emergency shelters.
3. Both amendments act to implement Goals and Programs of adopted 2008-2014 Housing Element.

**NOW, THEREFORE, BE IT RESOLVED:**

The Planning Commission of the City of Newport Beach hereby approves this Resolution recommending City Council approval of Code Amendment (CA2012-009), as provided in Exhibit A of this resolution, which is attached hereto and incorporated by reference.

**PASSED, APPROVED AND ADOPTED THIS 17th DAY OF JANUARY, 2013.**

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: \_\_\_\_\_  
Michael Toerge, Chairman

BY: \_\_\_\_\_  
Fred Ameri, Secretary

**EXHIBIT "A"**

Revised Zoning Code Sections 20.20.020, 20.40.040 and 20.70.020

DRAFT



Amendment to Section 20.20.020 Commercial Zoning Districts Land Uses and Permit Requirements to add the SRO Land Use to Tables 2-4 and 2-5:

<b>TABLE 2-4 ALLOWED USES AND PERMIT REQUIREMENTS</b>	<b>Commercial Office Zoning Districts</b>				
	<b>Permit Requirements *</b>				
	<b>P</b> Permitted by Right  <b>CUP</b> Conditional Use Permit (Section <a href="#">20.52.020</a> )  <b>MUP</b> Minor Use Permit (Section <a href="#">20.52.020</a> )  <b>LTP</b> Limited Term Permit (Section <a href="#">20.52.040</a> )  <b>—</b> Not allowed *				
<b>Land Use</b>  <b>See Part 7 of this title for land use definitions.</b>  <b>See Chapter <a href="#">20.12</a> for unlisted uses.</b>	<b>OA</b>	<b>OG</b>	<b>OM</b>	<b>OR</b>	<b>Specific Use Regulations</b>
Visitor Accommodations, Nonresidential					
Hotels, Motels, and Time Shares	CUP	—	CUP	—	
<a href="#">SRO Residential Hotel</a>	<a href="#">CUP</a>	<a href="#">CUP</a>	<a href="#">CUP</a>	<a href="#">CUP</a>	

<p><b>TABLE 2-5</b> <b>ALLOWED USES AND PERMIT REQUIREMENTS</b></p>	<p><b>Commercial Retail Zoning Districts</b></p> <p><b>Permit Requirements *</b></p>					
	<p><b>P Permitted by Right</b></p> <p><b>Conditional Use Permit (Section CUP <a href="#">20.52.020</a>)</b></p> <p><b>MUP Minor Use Permit (Section <a href="#">20.52.020</a>)</b></p> <p><b>LTP Limited Term Permit (Section <a href="#">20.52.040</a>)</b></p> <p><b>— Not allowed *</b></p>					
<p><b>Land Use</b></p> <p><b>See Part 7 of this title for land use definitions.</b></p> <p><b>See Chapter <a href="#">20.12</a> for unlisted uses.</b></p>	<b>CC</b>	<b>CG</b>	<b>CM</b>	<b>CN</b>	<b>CV</b>	<b>Specific Use Regulations</b>
<b>Visitor Accommodations</b>						
Bed and Breakfast Inns	MUP	MUP	MUP	—	MUP	Section <a href="#">20.48.060</a>
Hotels and Motels	CUP	CUP	CUP	—	CUP	
RV Parks	—	—	—	—	CUP	
Time Share Facilities	—	CUP	—	—	CUP	Section <a href="#">20.48.220</a>
<u>SRO Residential Hotel</u>	<u>CUP</u>	<u>CUP</u>	<u>CUP</u>	<u>CUP</u>	<u>CUP</u>	



Amendment to Section 20.40.040 Off-Street Parking Spaces Required Table 3.10 under the Emergency Shelter Land Use add the following:

**TABLE 3-10**

**OFF-STREET PARKING REQUIREMENTS**

<b>Land Use</b>	<b>Parking Spaces Required</b>
Emergency Shelter	<u>As required by Conditional Use Permit</u> <u>1 per 4 beds plus 1 per staff; and if shelter is designed with designated family units</u> <u>then ½ a parking space per bedroom designated for family units</u>

Amendment to Section 20.70.020 to add No. 6 to the following Visitor Accommodations (Land Use) definition:

“Visitor Accommodations (Land Use).

6. Single Room Occupancy, Residential Hotels (SRO) **SRO:** (HUD definition): Buildings with six or more guest rooms without kitchen facilities in individual rooms, or kitchen facilities for the exclusive use of guests, and which are also the primary residences of the hotel guests.

All other definitions within this Section remain the same and will be renumbered accordingly.

ADDITIONAL  
MATERIALS  
RECEIVED

# Zoning Code Amendment

## Single Room Occupancy Residential Hotels (SROs)

## Parking for Emergency Shelters

Planning Commission  
Public Hearing  
January 17, 2013

STAFF PRESENTATION (PA2012-179)



# Introduction



- Zoning Code Amendment
  - Re-insert Single Room Occupancy (SRO) Residential Hotels definition, permit SROs in Commercial and Office Districts with CUP
  - Add Parking Standard for Emergency Shelters

# Background SRO



- Required by Government Code Section 65583 (c) (1)
- HCD required Housing Element Program HP 5.1.7 to re-insert definition and add provisions consistent with State Housing Element Law
- City Council approved the Housing Element including this program on November 22, 2011

# Background Emergency Shelters



- Clean-up item parking standards left-out of Code Update
- Research conducted with other Cities and operators
- Common rate required and recommended rate:
  - 1 parking space/4beds + 1/staff
  - If shelter designed with rooms for family units then 1/2 a parking space per family unit bedroom





# State Law



- 65583(c)(1)
- 
- (c) A program which sets forth a schedule of actions during the planning period, each with a timeline for implementation, which may recognize that certain programs are ongoing, such that there will be beneficial impacts of the programs within the planning period, that the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, the provision of regulatory concessions and incentives, the utilization of appropriate federal and state financing and subsidy programs when available, and the utilization of moneys in a low- and moderate-income housing fund of an agency if the locality has established a redevelopment project area pursuant to the Community Redevelopment Law (Division 24 (commencing with Section 33000) of the Health and Safety Code). In order to make adequate provision for the housing needs of all economic segments of the community, the program shall do all of the following:
  - (1) Identify actions that will be taken to make sites available during the planning period with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Section 65584.09. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing.

- **Housing Program 5.1.7** Amend the Zoning Code to include a definition of Single Room Occupancy (SRO) Residential Hotels and add provisions that would permit SROs within the commercial and office zoning districts with the approval of a use permit. No standard set of conditions or use restrictions on SROs shall be established; instead, each application should be evaluated individually and approved based upon its own merits and circumstances. (*Imp 2.1, 25.1*)
- *Responsibility: Planning Division, Planning Commission and City Council*
- *2008-2014 Objective: Adoption of the amendment shall be completed by the end of Fall 2011.*



For more information contact:

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949-644-3221  
[mwhelan@newportbeachca.gov](mailto:mwhelan@newportbeachca.gov)  
[www.newportbeachca.gov](http://www.newportbeachca.gov)

PLEASE DISTRIBUTE AND ENTER INTO THE PUBLIC RECORD

To: City of Newport Beach-Planning Commission

From: Denys Oberman,

Subject: COMMENT-JANUARY 17,2013 PLANNING COMMISSION AGENDA

PUBLIC HEARING ITEM #2- ZONING CODE AMENDMENT TO ALLOW SINGLE ROOM OCCUPANCY  
RESIDENTIAL HOTELS(SRO) and PARKING FOR EMERGENCY SHELTERS

City staff proposes to include a parking element for emergency shelters. We believe that this recommendation is acceptable.

SROs- City staff proposes that the Zoning Code be Amended to include a definition of SROs, and allow SROs within commercial and office zoning districts, subject to approval of a Conditional Use Permit(CUP).

We understand that SROs can serve a purpose as one solution to satisfy affordable housing goals. However, the SRO can also serve to facilitate the introduction of increased transient population, parolees and other boarding-house type facilities that the city currently does not permit .

We object to across the board zoning permitting SROs in any commercial or office zoned districts. In many commercial, zoning or mixed use districts, an SRO would be inappropriate and incompatible with planning objectives for the area, or be adverse to the social and economic integrity of the area. For example, SROs could be located in a specific radius near the airport, but should NOT be permitted in any area proximate to dense residential neighborhoods, schools, parks and beaches.

Furthermore, an SRO would have an environmental impact on the area(parking, noise,air quality particularly with smoking), so it should be required to establish environmental compliance.

We object to the establishment of SROs ,as there is no practical means of distinguishing the use from boarding house or parolee uses.There is no legal requirement mandating that the City allow SROs.In any event,SROs should ONLY be allowed in specifically-designated commercial /industrial areas, and NOT in any coastal or other dense residential or mixed use area. Additionally, they should not be permitted in coastal areas such as Balboa Peninsula, Lido and Balboa Islands, Corona del Mar and West Newport where there is high sensitivity to density and impact on neighborhood integrity.

Thank you for your consideration.

## Comments on January 3, 2013 PC Meeting Agenda Item 2

The following comments on Item 2 on the January 17, 2013, Newport Beach Planning Commission agenda are submitted by: Jim Mosher ( [jimmosher@yahoo.com](mailto:jimmosher@yahoo.com) ), 2210 Private Road, Newport Beach 92660 (949-548-6229)

### ***Item 2: Zoning Code Amendment Single Room Occupancy Residential Hotels and Parking for Emergency Shelters (PA2012-179)***

Regarding the proposed resolution and the snippets of modified code presented as Exhibit A, we seem to have entered the brave new world permitted by the Measure EE changes to City Charter Section 418, which formerly required reenactment of the code sections “at length.”

Although this new, abbreviated process saves paper, it is apparent to me that deprives both the lawmakers and the public from seeing the proposed changes in context.

Having gone to the extra work of trying to determine where these proposed changes would go, I would like to make the following technical observations:

- On handwritten pages 11 and 12 of the 14 page staff report, the fragments of what purports to be Table 2-4 from Municipal Code Section 20.20.020 differs from the tables adopted in the Zoning Code adopted by Ordinance 2010-21 as signed by then Mayor Keith Curry and approved by then City Attorney David R. Hunt. Those tables erroneously made references to 20.66.080 and 20.66.090, which have been corrected here to 20.52.020 and 20.52.040. In a sense it is good that “errors” have been corrected, but at the same time it may be worrisome to some that changes can apparently be made without public knowledge or awareness, leaving one wondering what other parts of the publicly adopted legislation might be regarded as “errors” subject to change without notice in the on-line code?
- It is also difficult to verify the proposed insertions because the even-numbered pages of this part of the Zoning Code, which would presumably have included the “Visitor Accommodations, Nonresidential” sections of Tables 2-4 and 2-5 were omitted from the adopted ordinance (or, at least, if they are there they are out of sequence and I was unable to find them).
- On handwritten page 14, the statement that “*All other definitions within this Section remain the same and will be renumbered accordingly*” is a bit confusing since the definitions referenced were not numbered in the adopted Newport Beach Zoning Code. Checking on-line, someone appears to have numbered them there, and slightly modified their wording. Again, one wonders what else may have been changed?

I would further, and more importantly, like to make the following substantive comments:

- On handwritten page 3, I'm not sure I fully understand the proposed definition of "*Single Room Occupancy Residential Hotels*," nor the rationale for why they would be permitted "*in all of the Office and Commercial Districts*" rather than just the zones in which other transient/residential uses are allowed (referring to proposed Table 2-4) – that is, why are they the least restricted in location? This seems a failure of planning.
- On handwritten page 11, in Table 2-4, it seems a further oddity to have "*SRO Residential Hotel*" listed under the heading "*Visitor Accommodations, Nonresidential*". Perhaps this makes sense when seen in a larger context, but as presented, it does not.
- On handwritten page 13, I'm not sure I understand the intended meaning of the proposed *Off-Street Parking Requirement for Emergency Shelters*. Is it trying to say there is an **additional** requirement of ½ space for each bedroom in a "designated family unit"? Or, for designated family units, does that **replace** the 1 space per 4 beds requirement? I find the language unclear.
- On handwritten page 14, regarding the proposed definition of "*Single Room Occupancy, Residential Hotels (SRO) SRO*":
  - Is there supposed to be a comma between "*Single Room Occupancy*" and "*Residential Hotels*"?
  - Is the abbreviation "SRO" supposed to appear twice?
  - As to the substance of the definition itself, where does this wording come from? Why six and more rooms? Why the emphasis on kitchen facilities?
    - The text implies it is a HUD definition, but Googling on the text, the only place I can find a similar definition is in the Oceanside Municipal Code.
    - The US Census Bureau (<http://www.census.gov/srd/papers/pdf/ssm2006-03.pdf>) has pages of definitions including:
      - *Federal: "Single room occupancy housing' means a unit that contains no sanitary facilities or food preparation facilities, or contains one but not both types of facilities (as those facilities are defined in 887.251 (a) and (b), that is suitable for occupancy by an eligible individual capable of independent living."* [SOURCE: United States 1992 (USC 24CFR887.481 §. 887.481)]
      - *San Diego, California: "a facility with more than five sleeping rooms that is kept, used, maintained, advertised, or held out to the public as a place where sleeping rooms are offered on a single room occupancy (SRO) basis and intended for use as a primary*

*residence for residential guests for a period of more than thirty days."* [SOURCE: City of San Diego 2003 (Municipal Code 1301:7-5-08 (A) §124.1.2).]

- The California Health and Safety Code provides the following definitions: *"50519. (b) (1) "Residential hotel" means any building containing six or more guestrooms or efficiency units, as defined by Section 17958.1, intended or designed to be used, or which are used, rented, or hired out, to be occupied, or which are occupied, for sleeping purposes by guests, which is also the primary residence of those guests, but does not mean any building containing six or more guestrooms or efficiency units, as defined by Section 17958.1, which is primarily used by transient guests who do not occupy that building as their primary residence."*

*17958.1. Notwithstanding Sections 17922, 17958, and 17958.5, a city or county may, by ordinance, permit efficiency units for occupancy by no more than two persons which have a minimum floor area of 150 square feet and which may also have partial kitchen or bathroom facilities, as specified by the ordinance. In all other respects, these efficiency units shall conform to minimum standards for those occupancies otherwise made applicable pursuant to this part. "Efficiency unit," as used in this section, has the same meaning specified in the Uniform Building Code of the International Conference of Building Officials, as incorporated by reference in Chapter 2-12 of Part 2 of Title 24 of the California Code of Regulations."*

- Note that all these definitions, other than the one in Oceanside, **allow** kitchen amenities.
  - Under our proposed definition, does a regular hotel become an SRO if a person lives there permanently? If six people use it as a residence, but the others are normal hotel guests? Conversely, does an SRO lose its SRO status if some of its occupants *don't* use it as their primary residence?
  - What category of use does an SRO become if it adds a kitchen? Or it has a kitchen to feed the residents, but it isn't "exclusive"?

Again, without seeing the proposed changes in a larger context, and perhaps even then, I find all of this very unclear.

Amendment to Section 20.70.020 to add No. 6 to the following Visitor Accommodations (Land Use) definition:

“Visitor Accommodations (Land Use).

6. Single Room Occupancy, Residential Hotels (SRO) **SRO:** (HUD definition): Buildings with six or more guest rooms without kitchen facilities in individual rooms, or kitchen facilities for the exclusive use of guests, and which are also the primary residences of the hotel guests.

All other definitions within this Section remain the same and will be renumbered accordingly.



**CITY OF NEWPORT BEACH**  
**PLANNING COMMISSION SUPPLEMENTAL STAFF REPORT**

January 17, 2013 Meeting  
Agenda Item 3

**SUBJECT:** Residential Lot Merger Code Amendment - (PA2012-102)  
▪ Code Amendment CA2012-007

**APPLICANT:** City of Newport Beach

**PLANNER:** Patrick J. Alford, Planning Manager  
(949) 644-3235, [palford@newportbeachca.gov](mailto:palford@newportbeachca.gov)

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Staff has determined that minor revisions to the proposed code amendment are needed in order to clarify that proposed regulation would only apply to those lots where the lot width was increased by more than fifty (50) percent. These changes have been incorporated into both the text of the draft resolution and Exhibit A. The new edits are highlighted.

Prepared by:



Patrick J. Alford, Planning Manager

Submitted  
by:



Brenda Wisneski, AICP, Deputy Director

**ATTACHMENTS**

Revised Draft Resolution



RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH RECOMMENDING CITY COUNCIL ADOPTION OF CODE AMENDMENT NO. CA2012-007 RESTRICTING THE MAXIMUM ALLOWABLE RESIDENTIAL FLOOR AREA ON LOT RECONFIGURATIONS RESULTING IN LOT WIDTH INCREASES OF MORE THAN FIFTY PERCENT (PA2012-102)**

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. On August 14, 2012, the City Council initiated an amendment of the Zoning Code and the Subdivision Code that would modify residential development standards so that the future merger of two or more lots in the single-unit and two-unit zoning districts of Balboa Island, Balboa Peninsula, Corona del Mar, Lido Isle, and West Newport would result in no net increase in the maximum allowable floor area that existed prior to the merger.
2. A public hearing was held on January 17, 2013, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

The code amendment is categorically exempt under Section 15305, of the California Environmental Quality Act (CEQA) Guidelines – Class 5 (Minor Alterations in Land Use Limitations) because the properties involved have an average slope of less than 20 percent; and the and proposed amendment would not result in any changes in land use or density.

SECTION 3. FINDINGS.

1. Parcel maps, lot line adjustments, and lot mergers can result in the elimination of setback areas resulting in larger buildable areas and potentially larger residential units.
2. The proposed amendment will modify the residential development standards of the R-1, R-BI, and R-2 Zoning Districts so that any existing lot in Balboa Island, Balboa Peninsula, Corona del Mar, Lido Isle, and West Newport that has been reconfigured by a lot merger, lot line adjustment, or parcel map that resulted in an increased lot width of more than fifty (50) percent on the largest of the lots involved in the reconfiguration, the maximum gross floor area permitted on the lot shall not exceed that which would have otherwise been permitted if the lots were developed individually prior to the reconfiguration.

**NOW, THEREFORE, BE IT RESOLVED:**

The Planning Commission of the City of Newport Beach hereby recommends approval of Code Amendment No. CA2012-007 as set forth in Exhibit "A."

**PASSED, APPROVED AND ADOPTED THIS \_17th DAY OF JANUARY, 2013.**

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: \_\_\_\_\_  
Michael Toerge, Chairman

BY: \_\_\_\_\_  
Fred Ameri, Secretary

**EXHIBIT A**  
**Code Amendment No. CA2012-007**

**Section 19.12.070.A**

A. Required Findings for Approval. In approving a tentative tract map or tentative parcel map, the decision making body shall make all of the following findings:

1. That the proposed map and the design or improvements of the subdivision are consistent with the General Plan and any applicable specific plan, and with applicable provisions of the Subdivision Map Act and this Subdivision Code;
2. That the site is physically suitable for the type and density of development;
3. That the design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage nor substantially and avoidably injure fish or wildlife or their habitat. However, notwithstanding the foregoing, the decision making body may nevertheless approve such a subdivision if an environmental impact report was prepared for the project and a finding was made pursuant to Section 21081 of the California Environmental Quality Act that specific economic, social or other considerations make infeasible the mitigation measures or project alternatives identified in the environmental impact report;
4. That the design of the subdivision or the type of improvements is not likely to cause serious public health problems;
5. That the design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision. In this connection, the decision making body may approve a map if it finds that alternate easements, for access or for use, will be provided and that these easements will be substantially equivalent to ones previously acquired by the public. This finding shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to the City Council to determine that the public at large has acquired easements for access through or use of property within a subdivision;
6. That, subject to the detailed provisions of Section 66474.4 of the Subdivision Map Act, if the land is subject to a contract entered into pursuant to the California Land Conservation Act of 1965 (Williamson Act), the resulting parcels following a subdivision of the land would not be too small to sustain their agricultural use or the subdivision will result in residential development incidental to the commercial agricultural use of the land;
7. That, in the case of a "land project" as defined in Section 11000.5 of the California Business and Professions Code: (1) There is an adopted specific plan for the area to be included within the land project; and (2) the decision making body finds that the proposed land project is consistent with the specific plan for the area;

8. That solar access and passive heating and cooling design requirements have been satisfied in accordance with Sections 66473.1 and 66475.3 of the Subdivision Map Act;
9. That the subdivision is consistent with Section 66412.3 of the Subdivision Map Act and Section 65584 of the California Government Code regarding the City's share of the regional housing need and that it balances the housing needs of the region against the public service needs of the City's residents and available fiscal and environmental resources;
10. That the discharge of waste from the proposed subdivision into the existing sewer system will not result in a violation of existing requirements prescribed by the Regional Water Quality Control Board; ~~and~~
11. For subdivisions lying partly or wholly within the Coastal Zone, that the subdivision conforms with the certified Local Coastal Program and, where applicable, with public access and recreation policies of Chapter Three of the Coastal Act; ~~and~~
12. For subdivisions involving the reconfiguration of existing lots within the R-1, R-BI, and R-2 Zoning Districts of Balboa Island, Balboa Peninsula, Corona del Mar, Lido Isle, and West Newport, as identified in the Zoning Code: when the reconfiguration results in an increase in the lot width of more than fifty (50) percent on the largest lot involved in the reconfiguration, the maximum gross floor area permitted on this lot shall not exceed that which would have otherwise been permitted if the lots were developed individually prior to the reconfiguration.

#### **Section 19.68.030.H**

H. Required Findings. All of the following findings shall be made prior to approval of a lot merger:

1. Approval of the merger will not, under the circumstances of this particular case, be detrimental to the health, safety, peace, comfort and general welfare of persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the City, and further that the proposed lot merger is consistent with the legislative intent of this title; and
2. The lots to be merged are under common fee ownership at the time of the merger; and
3. The lots as merged will be consistent or will be more closely compatible with the applicable zoning regulations and will be consistent with other regulations relating to the subject property including, but not limited to, the General Plan and any applicable Coastal Plan or Specific Plan; and
4. Neither the lots as merged nor adjoining parcels will be deprived of legal access as a result of the merger; and
5. The lots as merged will be consistent with the surrounding pattern of development and will not create an excessively large lot that is not compatible with the surrounding development.

6. Within the R-1, R-BI, and R-2 Zoning Districts of Balboa Island, Balboa Peninsula, Corona del Mar, Lido Isle, and West Newport, as identified in the Zoning

Code: when lots as merged result in an increase in the lot width of more than fifty (50) percent, the maximum gross floor area permitted shall not exceed that which would have otherwise been permitted if these lots were developed individually prior to the reconfiguration.

#### **Section 19.76.020.I.6**

6. That the final configuration of a reoriented lot does not result in any reduction of the street side setbacks as currently exist adjacent to a front yard of any adjacent key lot, unless such reduction is accomplished through a zone change to establish appropriate street side setbacks for the reoriented lot. The Planning Commission and City Council in approving the zone change application shall determine that the street side setbacks are appropriate, and are consistent and compatible with the surrounding pattern of development and existing adjacent setbacks.

A. Within the R-1, R-BI, and R-2 Zoning Districts of Balboa Island, Balboa Peninsula, Corona del Mar, Lido Isle, and West Newport, as identified in the Zoning Code: when a lot line adjustment results in an increase in the lot width of more than fifty (50) percent on the largest lot involved in the reconfiguration, the maximum gross floor area permitted on the lot shall not exceed that which would have otherwise been permitted if these lots were developed individually prior to the lot line adjustment.

**Section 20.18.030, Table 2-2**

**TABLE 2-2**

**DEVELOPMENT STANDARDS FOR SINGLE-UNIT  
RESIDENTIAL ZONING DISTRICTS**

<b>Development Feature</b>	<b>R-A</b>	<b>R-1</b>	<b>R-1- 6,000</b>	<b>R-1- 7,200</b>	<b>R-1- 10,000</b>	<b>Additional Requirements</b>
Lot Dimensions	Minimum dimensions required for each newly created lot.					
Lot Area (1) (2)						
Corner lot	87,120 sq. ft.	6,000 sq. ft.	6,000 sq. ft.	7,200 sq. ft.	10,000 sq. ft.	
Interior lot	87,120 sq. ft.	5,000 sq. ft.	6,000 sq. ft.	7,200 sq. ft.	10,000 sq. ft.	
Lot Width						
Corner lot	125 ft.	60 ft.	60 ft.	70 ft.	90 ft.	
Interior lot	125 ft.	50 ft.	60 ft.	70 ft.	90 ft.	
Lot Depth	N/A	N/A	80 ft.	90 ft.	100 ft.	
Density/Intensity	Each legal lot shall be allowed one single-unit detached dwelling.					
Setbacks	The distances below are minimum setbacks required for primary structures. See Section 20.30.110 (Setback Regulations and Exceptions) for setback measurement, allowed projections into setbacks, and exceptions. The following setbacks shall apply, unless different requirements are identified on the setback maps in which case the setback maps shall control. (See Part 8 of this title.) Side and rear setback areas shown on the setback maps shall be considered front setback areas for the purpose of regulating accessory structures. Also refer to Section 20.48.180 (Residential Development Standards and Design Criteria).					
Front:	20 ft.	20 ft.	20 ft.	20 ft.	15 ft.	20.30.110 20.48.180
Side (interior, each):						20.30.110 20.48.180
Lots 40 ft. wide or less	5 ft.	3 ft. (4)	6 ft.	5 ft.	10 ft.	
Lots wider than 40 ft.	5 ft.	4 ft.	6 ft.	5 ft.	10 ft.	
Side (street side):						20.30.110 20.48.180
Lots 40 ft. wide or less	5 ft.	3 ft.	6 ft.	5 ft.	10 ft.	
Lots wider than 40 ft.	5 ft.	4 ft.	6 ft.	5 ft.	10 ft.	
Rear:	25 ft.	10 ft.	6 ft.	20 ft.	10 ft.	Lots abutting a 10



Abutting Alley:						ft. alley or less that are directly across the alley from the side yard of a lot abutting an alley shall provide a setback for the first floor of at least 10 ft. from the alley.
10 ft. wide or less	N/A	5 ft.	N/A	N/A	N/A	
15 ft. wide or less	N/A	5 ft.	N/A	N/A	N/A	
15'1" to 19'11"	N/A	3'9"	N/A	N/A	N/A	
20 ft. wide or more	N/A	0	N/A	N/A	N/A	
Bluff edge setback	As provided in Section 20.28.040 (Bluff (B) Overlay District).					
Bulkhead setback	Structures shall be set back a minimum of 10 ft. from the bulkhead in each zoning district.					
Site Coverage	Maximum percentage of the total lot area that may be covered by structures.					
Lots 40 ft. wide or less	N/A	N/A	60%	60%	60%	
Lots wider than 40 ft.	40%	N/A	60%	60%	60%	
Floor Area Limit (gross floor area)	N/A		N/A			
Citywide		2.0 (5)(6) <u>(7)</u>				
Corona del Mar		1.5 (5)(6) <u>(7)</u>				
Height (3)	Maximum height of structures without discretionary approval. See Section 20.30.060(C) (Increase in Height Limit) for possible increase in height limit.					
Flat roof	24 ft.	24 ft.	24 ft.	35 ft. and 2 stories	24 ft.	See 20.30.060(C)(2) (Height Limit Areas) and 20.30.060(B) (Height of Structures and Measurement)
Sloped roof; minimum 3/12 pitch	29 ft.	29 ft.	29 ft.	40 ft. and 2 stories	29 ft.	
Bluffs	See Section 20.28.040 (Bluff (B) Overlay District).					
Fencing	See Section 20.30.040 (Fences, Hedges, Walls, and Retaining Walls).					
Landscaping	See Chapter 20.36 (Landscaping Standards).					
Lighting	See Section 20.30.070 (Outdoor Lighting).					
Parking	See Chapter 20.40 (Off-Street Parking).					
Satellite Antennas	See Section 20.48.190 (Satellite Antennas and Amateur Radio Facilities).					
Signs	See Chapter 20.42 (Sign Standards).					

Residential Development Standards	See Section 20.48.180 (Residential Development Standards and Design Criteria).
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Notes:

- (1) All development and the subdivision of land shall comply with the requirements of Title 19 (Subdivisions).
- (2) Lots may be subdivided so that the resulting lot area and dimensions for each new lot are less than that identified in this table in compliance with the provisions of Title 19 (Subdivisions). The minimum lot size shall not be less than the original underlying lots on the same block face and in the same zoning district. Lot width and length may vary according to the width and depth of the original underlying lots. New subdivisions that would result in additional dwelling units beyond what the original underlying lots would allow are not permitted unless authorized by an amendment of the General Plan (GPA).
- (3) On the bluff side of Ocean Boulevard, the maximum height shall not exceed the elevation of the top of the curb abutting the lot.
- (4) Side setback areas for lots designated Special Fire Protection Areas shall be a minimum of five feet unless reduced by the Fire Marshal.
- (5) The floor area of a subterranean basement is not included in the calculation of total gross floor area.
- (6) The maximum gross floor area for a residential structure is determined by multiplying either 1.5 or 2.0 times the buildable area of the lot.

(7) In the R-1 Zoning District of Balboa Island, Balboa Peninsula, Corona del Mar, Lido Isle, or West Newport: existing lots reconfigured by a lot merger, lot line adjustment, or parcel map after [EFFECTIVE DATE] that resulted in an increase in the lot width of more than fifty (50) percent on the largest of lots involved in the reconfiguration, the maximum gross floor area permitted on the lot shall not exceed that which would have otherwise been permitted if these lots were developed individually prior to the reconfiguration.

**TABLE 2-3**

**DEVELOPMENT STANDARDS FOR TWO-UNIT AND MULTI-UNIT  
RESIDENTIAL ZONING DISTRICTS**

<b>Development Feature</b>	<b>R-BI</b>	<b>R-2</b>	<b>R-2-6,000</b>	<b>Additional Requirements</b>
Lot Dimensions	Minimum dimensions required for each newly created lot.			
Lot Area (1) (2) (3)				
Corner lot	2,375 sq. ft.	6,000 sq. ft.	6,000 sq. ft.	
Interior lot	2,375 sq. ft.	5,000 sq. ft.	6,000 sq. ft.	
Lot Width				
Corner lot	60 ft.	60 ft.	60 ft.	
Interior lot	50 ft.	50 ft.	60 ft.	
Lot Depth	N/A	N/A	80 ft.	
Site Area per Dwelling Unit	Minimum required site area per dwelling unit based on net area of the lot.			
	1,000 sq. ft.	1,000 sq. ft.	3,000 sq. ft.	
	No more than 2 units per lot			
Site Coverage	Maximum percentage of the total lot area that may be covered by structures.			
	N/A	N/A	60%	
Floor Area Limit (9) (gross floor area)	1.5 plus 200 sq. ft. <u>(10)</u>	2.0 Citywide (8) 1.5 Corona del Mar (8) <u>(10)</u>	N/A	
Setbacks	The distances below are minimum setbacks required for primary structures. See Section 20.30.110 (Setback Regulations and Exceptions) for setback measurement, allowed projections into setbacks, and exceptions. The following setbacks shall apply, unless different requirements are identified on the setback maps in which case the setback maps shall control. (See Part 8 of this title.) Side and rear setback areas shown on the setback maps shall be considered front setback areas for the purpose of regulating accessory structures. Also refer to Section 20.48.180 (Residential Development Standards and Design Criteria).			
Front:	20 ft.	20 ft.	20 ft.	

Side (interior, each):				
Lots 40 ft. wide or less	3 ft.	3 ft.	6 ft.	
Lots 40'1" wide to 49'11" wide	4 ft.	4 ft.	6 ft.	
Lots 50 ft. wide and greater	N/A	4 ft.	6 ft.	
Side (street side):				
Lots 40 ft. wide or less	3 ft. <u>(10)</u>	3 ft.	N/A	
Lots 40'1" wide to 49'11" wide	4 ft.	4 ft.	N/A	
Lots 50 ft. wide and greater	N/A	N/A	6 ft.	
Rear:	10 ft.	10 ft.	6 ft.	Lots abutting a 10 ft. alley or less that are directly across the alley from the side yard of a lot abutting the alley shall provide a setback for the first floor of at least 10 ft. from the alley.
Abutting Alley				
10 ft. wide or less	5 ft.	5 ft.	N/A	
15 ft. wide or less	5 ft.	5 ft.	N/A	
15'1" to 19'11"	3'9"	3'9"	N/A	
20 ft. wide or more	0	0	N/A	
Waterfront	10 ft.	10 ft.	N/A	
Bluff edge setback	As provided in Section 20.28.040 (Bluff (B) Overlay District).			
Bulkhead setback	Structures shall be set back a minimum of 10 ft. from the bulkhead in each zoning district.			
Height (6)	Maximum height of structures without discretionary approval. See Section 20.30.060(C) (Increase in Height Limit) for possible increase in height limit.			
Flat roof	24 ft.	24 ft.	24 ft.	See Section 20.30.060(C) (Increase in Height Limit)
Sloped roof; minimum 3/12 pitch	29 ft.	29 ft.	29 ft.	
Bluffs	See Section 20.28.040 (Bluff (B) Overlay District).			
Fencing	See Section 20.30.040 (Fences, Hedges, Walls and Retaining Walls).			
Landscaping	See Chapter 20.36 (Landscaping Standards).			
Lighting	See Section 20.30.070 (Outdoor Lighting).			
Parking	See Chapter 20.40 (Off-Street Parking).			

Satellite Antennas	See Section 20.48.190 (Satellite Antennas and Amateur Radio Facilities).
Signs	See Chapter 20.42 (Sign Standards).
Residential Development Standards	See Section 20.48.180.

Notes:

- (1) All development and the subdivision of land shall comply with the requirements of Title 19 (Subdivisions).
- (2) Lots may be subdivided so that the resulting lot area and dimensions for each new lot are less than that identified in this table in compliance with the provisions of Title 19 (Subdivisions). The minimum lot size shall not be less than the original underlying lots on the same block face and in the same zoning district. Lot width and length may vary according to the width and depth of the original underlying lots. New subdivisions that would result in additional dwelling units beyond what the original underlying lots would allow are not permitted unless authorized by an amendment of the General Plan (GPA).
- (3) On a site of less than five thousand (5,000) square feet that existed prior to March 10, 1976, a two-family dwelling may be constructed; provided, that there shall be not less than one thousand (1,000) square feet of land area for each dwelling unit.
- (4) The total gross floor area contained in all buildings and structures on a development site shall not exceed 1.75 times the buildable area of the site or 1.5 times the buildable area of the site in Corona del Mar; provided, that up to two hundred (200) square feet of floor area per required parking space devoted to enclosed parking shall not be included in calculations of total gross floor area.
- (5) Interior and street side setback areas are not required to be wider than fifteen (15) feet; however, the side setback area on the street side of a corner lot, where the abutting lot has a reversed frontage, shall not be less than the front setback area required on the abutting reversed frontage.
- (6) On the bluff side of Ocean Boulevard, the maximum height shall not exceed the elevation of the top of the curb abutting the lot.
- (7) Portions of legal lots that have a slope greater than two-to-one (2:1) or that are submerged lands or tidelands shall be excluded from the land area of the lot for the purpose of determining the allowable number of units.
- (8) The floor area of a subterranean basement is not included in the calculation of total gross floor area.
- (9) The maximum gross floor area for a residential structure is determined by multiplying either 1.5 or 2.0 times the buildable area of the lot.
- (10) In the R-BI and R-2 Zoning Districts of Balboa Island, Balboa Peninsula, Corona del Mar, or West Newport: existing lots reconfigured by a lot merger, lot line adjustment, or parcel map after [EFFECTIVE DATE] that resulted in an increase in the lot width of more than fifty (50) percent on the largest of lots involved in the reconfiguration, the maximum gross floor area permitted on the lot shall not exceed that which would have otherwise been permitted if these lots were developed individually prior to the reconfiguration.

**CITY OF NEWPORT BEACH**  
**PLANNING COMMISSION STAFF REPORT**

January 17, 2013 Meeting  
Agenda Item 3

**SUBJECT:** Residential Lot Merger Code Amendment - (PA2012-102)  
▪ Code Amendment CA2012-007

**APPLICANT:** City of Newport Beach

**PLANNER:** Patrick J. Alford, Planning Manager  
(949) 644-3235, [palford@newportbeachca.gov](mailto:palford@newportbeachca.gov)

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**PROJECT SUMMARY**

An amendment to the Zoning Code (Title 20) and the Subdivision Code (Title 19) that would modify residential development standards so that the merger/reconfiguration of two or more lots would not result in an increase in the maximum amount of floor area that could have otherwise been developed prior to the merger/reconfiguration. The proposed amendment would apply only to properties located in the R-1, R-BI, and R-2 Zoning Districts of Balboa Island, Balboa Peninsula, Corona del Mar, Lido Isle, and West Newport where a parcel map, lot line adjustment, or lot merger results in an increase in lot width greater than 50 percent.

**RECOMMENDATION**

- 1) Conduct a public hearing; and
- 2) Adopt Resolution No. \_\_\_\_ (Attachment PC 1) recommending City Council approval of Code Amendment CA2012-107 .



## **INTRODUCTION**

### **Background**

On August 14, 2012, the City Council initiated an amendment of the Zoning Code and the Subdivision Code that would modify residential development standards so that the merger of two or more lots would result in no net decrease in the setback area and no net increase in the buildable area. Staff was further directed that the amendment would only apply to the single-unit and two-unit zoning districts of Balboa Island, Balboa Peninsula, Corona del Mar, Lido Isle, and West Newport.

## **DISCUSSION**

### **Proposed Amendment**

The proposed amendment would modify the residential development standards of the R-1, R-BI, and R-2 Zoning Districts of Balboa Island, Balboa Peninsula, Corona del Mar, Lido Isle, and West Newport. Lots reconfigured by a lot merger, lot line adjustment, or parcel map after effective date of the amendment that result in an increase in the lot width of more than fifty (50) percent would exceed the maximum gross floor area permitted prior to the reconfiguration. This would be accomplished by adding appropriate notes to the Tables 2-2 and Table 2-3 of Section 20.18.030 of the Zoning Code.

In addition, Sections 19.12.070.A, 19.68.030.O, and 19.76.020.I.6 of the Subdivision Code would be amended to add new required findings for the approval of parcel maps, lot mergers, and lot line adjustments to ensure that these restrictions are identified early in the application process and that future lot configuration projects are appropriately conditioned.

The proposed changes to these sections are provided in Exhibit A of the draft resolution (Attachment PC 1).

### **Analysis**

Most of the City's residential zoning districts (R-1, R-BI, R-2, and RM) have a maximum floor area limit based on the "buildable area" for the lot. "Buildable area" is defined as the area of a lot, excluding the minimum front, side, and rear setback areas. When abutting residential lots are merged, setback areas are eliminated resulting in a larger buildable area and potentially larger homes. As shown in Table 1 below, the merger of two lots with typical dimension/setback configurations result in an 8.33 percent increase in the buildable area and resulting allowable floor area than which would otherwise



occur if the two lots were developed individually. If three lots are merged, buildable area/floor area increases 13.89 percent. These potential increases in floor area can lead to neighborhood compatibility issues.

Table 1			
Corona del Mar - 30' x 118' lots (3540 sf each) with 20' front setback, 3' side setbacks, and 5' rear setback; 1.5 Floor Area Limit			
	2 lots Developed Individually	2 Lots Merged	Increase
Buildable (sf)	4,464	4,836	8.33%
Floor Area (sf)	6,696	7,254	
	3 lots Developed Individually	3 Lots Merged	Increase
Buildable (sf)	6,696	7,626	13.89%
Floor Area (sf)	10,044	11,439	
Balboa Peninsula - 30' x 95' lots (2850 sf each) with 10' front setback, 3' side setbacks, and 5' rear setback; 2.0 Floor Area Limit			
	2 lots Developed Individually	2 Lots Merged	Increase
Buildable (sf)	3360	3640	8.33%
Floor Area (sf)	6720	7280	
	3 lots Developed Individually	3 Lots Merged	Increase
Buildable (sf)	5,040	5,740	13.89%
Floor Area (sf)	10,080	11,480	
Balboa Island - 30' x 85' lots (2550 sf each) with 10' front setback, 3' side setbacks, and 5' rear setback; 1.5 Floor Area Limit			
	2 lots Developed Individually	2 Lots Merged	Increase
Buildable (sf)	2880	3120	8.33%
Floor Area (sf)	4320	6240	
	3 lots Developed Individually	3 Lots Merged	Increase
Buildable (sf)	4,320	7,380	13.89%
Floor Area (sf)	6,480	8,505	

Staff explored various approaches to implementing the Council's direction that future mergers result in no net decrease in the setback areas and buildable areas. Increasing the side setbacks to keep the buildable area (and floor area) the same was considered; however, side setbacks of six (6) feet or more would be required in many cases, which would present new neighborhood compatibility issues. In the end, the best approach would be to simply restrict the maximum allowable floor area to that which existed prior to the lot merger. It was also decided to limit to restriction to lot reconfigurations that

increase in the lot width by more than 50 percent in order to avoid apply this restriction to lot reconfigurations that do not result in excessively large lots.

#### Environmental Review

This item is categorically exempt under Section 15305, of the California Environmental Quality Act (CEQA) Guidelines – Class 5 (Minor Alterations in Land Use Limitations) because the properties involved have an average slope of less than 20 percent; and the and proposed amendment would not result in any changes in land use or density.

#### Public Notice

Notice of this amendment was published in the Daily Pilot, including an eighth page advertisement, consistent with the provisions of the Municipal Code. Additionally, the item appeared on the agenda for this meeting, which was posted at City Hall and on the City website and a notice of this item was mailed to the community associations of Balboa Island, Balboa Peninsula, Corona del Mar, Lido Isle, and West Newport.

Prepared by:



Patrick J. Alford, Planning Manager

Submitted  
by:



Brenda Wisneski, AICP, Deputy Director

#### ATTACHMENTS

PC 1 Draft Resolution



# **Attachment No. PC 1**

Draft Resolution



**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE  
CITY OF NEWPORT BEACH RECOMMENDING CITY COUNCIL  
ADOPTION OF CODE AMENDMENT NO. CA2012-007  
RESTRICTING THE MAXIMUM ALLOWABLE RESIDENTIAL  
FLOOR AREA ON LOT RECONFIGURATIONS RESULTING IN  
LOT WIDTH INCREASES OF MORE THAN FIFTY PERCENT  
(PA2012-102)**

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

**SECTION 1. STATEMENT OF FACTS.**

1. On August 14, 2012, the City Council initiated an amendment of the Zoning Code and the Subdivision Code that would modify residential development standards so that the merger of two or more lots in the single-unit and two-unit zoning districts of Island, Balboa Peninsula, Corona del Mar, Lido Isle, and West Newport would result no net increase in the maximum allowable floor area that existed prior to the merger.
2. A public hearing was held on January 17, 2013, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting.

**SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.**

The code amendment is categorically exempt under Section 15305, of the California Environmental Quality Act (CEQA) Guidelines – Class 5 (Minor Alterations in Land Use Limitations) because the properties involved have an average slope of less than 20 percent; and the and proposed amendment would not result in any changes in land use or density.

**SECTION 3. FINDINGS.**

1. Parcel maps, lot line adjustments, and lot mergers can result in the elimination of setback areas resulting in larger buildable areas and potentially larger residential units.
2. The proposed amendment will modify the residential development standards of the R-1, R-BI, and R-2 Zoning Districts so that any existing lot in the areas of Balboa Island, Balboa Peninsula, Corona del Mar, Lido Isle, and West Newport that has been reconfigured by a lot merger, lot line adjustment, or parcel map results in an increase in the lot width of more than fifty (50) percent, the maximum gross floor area permitted would not exceed that which existed prior to the reconfiguration.

**NOW, THEREFORE, BE IT RESOLVED:**

The Planning Commission of the City of Newport Beach hereby recommends approval of Code Amendment No. CA2012-007 as set forth in Exhibit "A."

**PASSED, APPROVED AND ADOPTED THIS \_17th DAY OF JANUARY, 2013.**

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: \_\_\_\_\_  
Michael Toerge, Chairman

BY: \_\_\_\_\_  
Fred Ameri, Secretary

**EXHIBIT A**  
**Code Amendment No. CA2012-007**

**Section 19.12.070.A**

A. Required Findings for Approval. In approving a tentative tract map or tentative parcel map, the decision making body shall make all of the following findings:

1. That the proposed map and the design or improvements of the subdivision are consistent with the General Plan and any applicable specific plan, and with applicable provisions of the Subdivision Map Act and this Subdivision Code;
2. That the site is physically suitable for the type and density of development;
3. That the design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage nor substantially and avoidably injure fish or wildlife or their habitat. However, notwithstanding the foregoing, the decision making body may nevertheless approve such a subdivision if an environmental impact report was prepared for the project and a finding was made pursuant to Section 21081 of the California Environmental Quality Act that specific economic, social or other considerations make infeasible the mitigation measures or project alternatives identified in the environmental impact report;
4. That the design of the subdivision or the type of improvements is not likely to cause serious public health problems;
5. That the design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision. In this connection, the decision making body may approve a map if it finds that alternate easements, for access or for use, will be provided and that these easements will be substantially equivalent to ones previously acquired by the public. This finding shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to the City Council to determine that the public at large has acquired easements for access through or use of property within a subdivision;
6. That, subject to the detailed provisions of Section 66474.4 of the Subdivision Map Act, if the land is subject to a contract entered into pursuant to the California Land Conservation Act of 1965 (Williamson Act), the resulting parcels following a subdivision of the land would not be too small to sustain their agricultural use or the subdivision will result in residential development incidental to the commercial agricultural use of the land;
7. That, in the case of a "land project" as defined in Section 11000.5 of the California Business and Professions Code: (1) There is an adopted specific plan for the area to be included within the land project; and (2) the decision making body finds that the proposed land project is consistent with the specific plan for the area;



8. That solar access and passive heating and cooling design requirements have been satisfied in accordance with Sections 66473.1 and 66475.3 of the Subdivision Map Act;
9. That the subdivision is consistent with Section 66412.3 of the Subdivision Map Act and Section 65584 of the California Government Code regarding the City's share of the regional housing need and that it balances the housing needs of the region against the public service needs of the City's residents and available fiscal and environmental resources;
10. That the discharge of waste from the proposed subdivision into the existing sewer system will not result in a violation of existing requirements prescribed by the Regional Water Quality Control Board; and
11. For subdivisions lying partly or wholly within the Coastal Zone, that the subdivision conforms with the certified Local Coastal Program and, where applicable, with public access and recreation policies of Chapter Three of the Coastal Act.
12. For subdivisions involving the reconfiguration of existing lots within the R-1, R-BI, and R-2 Zoning Districts of Balboa Island, Balboa Peninsula, Corona del Mar, Lido Isle, and West Newport, as identified in the Zoning Code, when the reconfiguration results in an increase in the lot width of more than fifty (50) percent, the maximum gross floor area permitted shall not exceed that which existed prior to the reconfiguration.

#### **Section 19.68.030.H**

H. Required Findings. All of the following findings shall be made prior to approval of a lot merger:

1. Approval of the merger will not, under the circumstances of this particular case, be detrimental to the health, safety, peace, comfort and general welfare of persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the City, and further that the proposed lot merger is consistent with the legislative intent of this title; and
2. The lots to be merged are under common fee ownership at the time of the merger; and
3. The lots as merged will be consistent or will be more closely compatible with the applicable zoning regulations and will be consistent with other regulations relating to the subject property including, but not limited to, the General Plan and any applicable Coastal Plan or Specific Plan; and
4. Neither the lots as merged nor adjoining parcels will be deprived of legal access as a result of the merger; and
5. The lots as merged will be consistent with the surrounding pattern of development and will not create an excessively large lot that is not compatible with the surrounding development.
6. Within the R-1, R-BI, and R-2 Zoning Districts of Balboa Island, Balboa Peninsula, Corona del Mar, Lido Isle, and West Newport, as identified in the Zoning Code, when lots as merged result in an increase in the lot width of more than fifty (50)

percent, the maximum gross floor area permitted shall not exceed that which existed prior to the merger.

#### **Section 19.76.020.I.6**

6. That the final configuration of a reoriented lot does not result in any reduction of the street side setbacks as currently exist adjacent to a front yard of any adjacent key lot, unless such reduction is accomplished through a zone change to establish appropriate street side setbacks for the reoriented lot. The Planning Commission and City Council in approving the zone change application shall determine that the street side setbacks are appropriate, and are consistent and compatible with the surrounding pattern of development and existing adjacent setbacks.

A. Within the R-1, R-BI, and R-2 Zoning Districts of Balboa Island, Balboa Peninsula, Corona del Mar, Lido Isle, and West Newport, as identified in the Zoning Code, when a lot line adjustment results in an increase in the lot width of more than fifty (50) percent, the maximum gross floor area permitted shall not exceed that which existed prior to the lot line adjustment.

**Section 20.18.030, Table 2-2**

**TABLE 2-2**

**DEVELOPMENT STANDARDS FOR SINGLE-UNIT  
RESIDENTIAL ZONING DISTRICTS**

<b>Development Feature</b>	<b>R-A</b>	<b>R-1</b>	<b>R-1- 6,000</b>	<b>R-1- 7,200</b>	<b>R-1- 10,000</b>	<b>Additional Requirements</b>
Lot Dimensions	Minimum dimensions required for each newly created lot.					
Lot Area (1) (2)						
Corner lot	87,120 sq. ft.	6,000 sq. ft.	6,000 sq. ft.	7,200 sq. ft.	10,000 sq. ft.	
Interior lot	87,120 sq. ft.	5,000 sq. ft.	6,000 sq. ft.	7,200 sq. ft.	10,000 sq. ft.	
Lot Width						
Corner lot	125 ft.	60 ft.	60 ft.	70 ft.	90 ft.	
Interior lot	125 ft.	50 ft.	60 ft.	70 ft.	90 ft.	
Lot Depth	N/A	N/A	80 ft.	90 ft.	100 ft.	
Density/Intensity	Each legal lot shall be allowed one single-unit detached dwelling.					
Setbacks	The distances below are minimum setbacks required for primary structures. See Section 20.30.110 (Setback Regulations and Exceptions) for setback measurement, allowed projections into setbacks, and exceptions. The following setbacks shall apply, unless different requirements are identified on the setback maps in which case the setback maps shall control. (See Part 8 of this title.) Side and rear setback areas shown on the setback maps shall be considered front setback areas for the purpose of regulating accessory structures. Also refer to Section 20.48.180 (Residential Development Standards and Design Criteria).					
Front:	20 ft.	20 ft.	20 ft.	20 ft.	15 ft.	20.30.110 20.48.180
Side (interior, each):						20.30.110 20.48.180
Lots 40 ft. wide or less	5 ft.	3 ft. (4)	6 ft.	5 ft.	10 ft.	
Lots wider than 40 ft.	5 ft.	4 ft.	6 ft.	5 ft.	10 ft.	
Side (street side):						20.30.110 20.48.180
Lots 40 ft. wide or less	5 ft.	3 ft.	6 ft.	5 ft.	10 ft.	
Lots wider than 40 ft.	5 ft.	4 ft.	6 ft.	5 ft.	10 ft.	
Rear:	25 ft.	10 ft.	6 ft.	20 ft.	10 ft.	Lots abutting a 10

Abutting Alley:						ft. alley or less that are directly across the alley from the side yard of a lot abutting an alley shall provide a setback for the first floor of at least 10 ft. from the alley.
10 ft. wide or less	N/A	5 ft.	N/A	N/A	N/A	
15 ft. wide or less	N/A	5 ft.	N/A	N/A	N/A	
15'1" to 19'11"	N/A	3'9"	N/A	N/A	N/A	
20 ft. wide or more	N/A	0	N/A	N/A	N/A	
Bluff edge setback	As provided in Section 20.28.040 (Bluff (B) Overlay District).					
Bulkhead setback	Structures shall be set back a minimum of 10 ft. from the bulkhead in each zoning district.					
Site Coverage	Maximum percentage of the total lot area that may be covered by structures.					
Lots 40 ft. wide or less	N/A	N/A	60%	60%	60%	
Lots wider than 40 ft.	40%	N/A	60%	60%	60%	
Floor Area Limit (gross floor area)	N/A		N/A			
Citywide		2.0 (5)(6) (7)				
Corona del Mar		1.5 (5)(6) (7)				
Height (3)	Maximum height of structures without discretionary approval. See Section 20.30.060(C) (Increase in Height Limit) for possible increase in height limit.					
Flat roof	24 ft.	24 ft.	24 ft.	35 ft. and 2 stories	24 ft.	See 20.30.060(C)(2) (Height Limit Areas) and 20.30.060(B) (Height of Structures and Measurement)
Sloped roof; minimum 3/12 pitch	29 ft.	29 ft.	29 ft.	40 ft. and 2 stories	29 ft.	
Bluffs	See Section 20.28.040 (Bluff (B) Overlay District).					
Fencing	See Section 20.30.040 (Fences, Hedges, Walls, and Retaining Walls).					
Landscaping	See Chapter 20.36 (Landscaping Standards).					
Lighting	See Section 20.30.070 (Outdoor Lighting).					
Parking	See Chapter 20.40 (Off-Street Parking).					
Satellite Antennas	See Section 20.48.190 (Satellite Antennas and Amateur Radio Facilities).					
Signs	See Chapter 20.42 (Sign Standards).					

Residential Development Standards	See Section 20.48.180 (Residential Development Standards and Design Criteria).
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Notes:

- (1) All development and the subdivision of land shall comply with the requirements of Title 19 (Subdivisions).
- (2) Lots may be subdivided so that the resulting lot area and dimensions for each new lot are less than that identified in this table in compliance with the provisions of Title 19 (Subdivisions). The minimum lot size shall not be less than the original underlying lots on the same block face and in the same zoning district. Lot width and length may vary according to the width and depth of the original underlying lots. New subdivisions that would result in additional dwelling units beyond what the original underlying lots would allow are not permitted unless authorized by an amendment of the General Plan (GPA).
- (3) On the bluff side of Ocean Boulevard, the maximum height shall not exceed the elevation of the top of the curb abutting the lot.
- (4) Side setback areas for lots designated Special Fire Protection Areas shall be a minimum of five feet unless reduced by the Fire Marshal.
- (5) The floor area of a subterranean basement is not included in the calculation of total gross floor area.
- (6) The maximum gross floor area for a residential structure is determined by multiplying either 1.5 or 2.0 times the buildable area of the lot.

(7) In the R-1 Zoning District of Balboa Island, Balboa Peninsula, Corona del Mar, Lido Isle, or West Newport, existing lots reconfigured by a lot merger, lot line adjustment, or parcel map after [EFFECTIVE DATE] that resulted in an increase in the lot width of more than fifty (50) percent, the maximum gross floor area permitted shall not exceed that which existed prior to the reconfiguration.

**TABLE 2-3**

**DEVELOPMENT STANDARDS FOR TWO-UNIT AND MULTI-UNIT  
RESIDENTIAL ZONING DISTRICTS**

<b>Development Feature</b>	<b>R-BI</b>	<b>R-2</b>	<b>R-2-6,000</b>	<b>Additional Requirements</b>
Lot Dimensions	Minimum dimensions required for each newly created lot.			
Lot Area (1) (2) (3)				
Corner lot	2,375 sq. ft.	6,000 sq. ft.	6,000 sq. ft.	
Interior lot	2,375 sq. ft.	5,000 sq. ft.	6,000 sq. ft.	
Lot Width				
Corner lot	60 ft.	60 ft.	60 ft.	
Interior lot	50 ft.	50 ft.	60 ft.	
Lot Depth	N/A	N/A	80 ft.	
Site Area per Dwelling Unit	Minimum required site area per dwelling unit based on net area of the lot.			
	1,000 sq. ft.	1,000 sq. ft.	3,000 sq. ft.	
	No more than 2 units per lot			
Site Coverage	Maximum percentage of the total lot area that may be covered by structures.			
	N/A	N/A	60%	
Floor Area Limit (9) (gross floor area)	1.5 plus 200 sq. ft. (10)	2.0 Citywide (8) 1.5 Corona del Mar (8) (10)	N/A	
Setbacks	The distances below are minimum setbacks required for primary structures. See Section 20.30.110 (Setback Regulations and Exceptions) for setback measurement, allowed projections into setbacks, and exceptions. The following setbacks shall apply, unless different requirements are identified on the setback maps in which case the setback maps shall control. (See Part 8 of this title.) Side and rear setback areas shown on the setback maps shall be considered front setback areas for the purpose of regulating accessory structures. Also refer to Section 20.48.180 (Residential Development Standards and Design Criteria).			
Front:	20 ft.	20 ft.	20 ft.	

Side (interior, each):				
Lots 40 ft. wide or less	3 ft.	3 ft.	6 ft.	
Lots 40'1" wide to 49'11" wide	4 ft.	4 ft.	6 ft.	
Lots 50 ft. wide and greater	N/A	4 ft.	6 ft.	
Side (street side):				
Lots 40 ft. wide or less	3 ft. <u>(10)</u>	3 ft.	N/A	
Lots 40'1" wide to 49'11" wide	4 ft.	4 ft.	N/A	
Lots 50 ft. wide and greater	N/A	N/A	6 ft.	
Rear:	10 ft.	10 ft.	6 ft.	Lots abutting a 10 ft. alley or less that are directly across the alley from the side yard of a lot abutting the alley shall provide a setback for the first floor of at least 10 ft. from the alley.
Abutting Alley				
10 ft. wide or less	5 ft.	5 ft.	N/A	
15 ft. wide or less	5 ft.	5 ft.	N/A	
15'1" to 19'11"	3'9"	3'9"	N/A	
20 ft. wide or more	0	0	N/A	
Waterfront	10 ft.	10 ft.	N/A	
Bluff edge setback	As provided in Section 20.28.040 (Bluff (B) Overlay District).			
Bulkhead setback	Structures shall be set back a minimum of 10 ft. from the bulkhead in each zoning district.			
Height (6)	Maximum height of structures without discretionary approval. See Section 20.30.060(C) (Increase in Height Limit) for possible increase in height limit.			
Flat roof	24 ft.	24 ft.	24 ft.	See Section 20.30.060(C) (Increase in Height Limit)
Sloped roof; minimum 3/12 pitch	29 ft.	29 ft.	29 ft.	
Bluffs	See Section 20.28.040 (Bluff (B) Overlay District).			
Fencing	See Section 20.30.040 (Fences, Hedges, Walls and Retaining Walls).			
Landscaping	See Chapter 20.36 (Landscaping Standards).			
Lighting	See Section 20.30.070 (Outdoor Lighting).			
Parking	See Chapter 20.40 (Off-Street Parking).			

Satellite Antennas	See Section 20.48.190 (Satellite Antennas and Amateur Radio Facilities).
Signs	See Chapter 20.42 (Sign Standards).
Residential Development Standards	See Section 20.48.180.

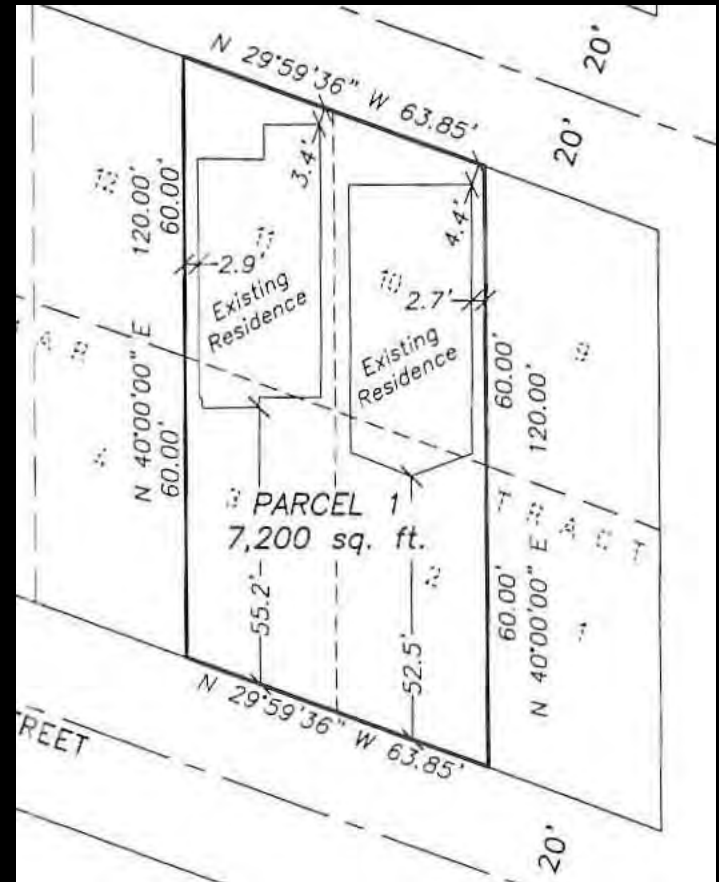
Notes:

- (1) All development and the subdivision of land shall comply with the requirements of Title 19 (Subdivisions).
- (2) Lots may be subdivided so that the resulting lot area and dimensions for each new lot are less than that identified in this table in compliance with the provisions of Title 19 (Subdivisions). The minimum lot size shall not be less than the original underlying lots on the same block face and in the same zoning district. Lot width and length may vary according to the width and depth of the original underlying lots. New subdivisions that would result in additional dwelling units beyond what the original underlying lots would allow are not permitted unless authorized by an amendment of the General Plan (GPA).
- (3) On a site of less than five thousand (5,000) square feet that existed prior to March 10, 1976, a two-family dwelling may be constructed; provided, that there shall be not less than one thousand (1,000) square feet of land area for each dwelling unit.
- (4) The total gross floor area contained in all buildings and structures on a development site shall not exceed 1.75 times the buildable area of the site or 1.5 times the buildable area of the site in Corona del Mar; provided, that up to two hundred (200) square feet of floor area per required parking space devoted to enclosed parking shall not be included in calculations of total gross floor area.
- (5) Interior and street side setback areas are not required to be wider than fifteen (15) feet; however, the side setback area on the street side of a corner lot, where the abutting lot has a reversed frontage, shall not be less than the front setback area required on the abutting reversed frontage.
- (6) On the bluff side of Ocean Boulevard, the maximum height shall not exceed the elevation of the top of the curb abutting the lot.
- (7) Portions of legal lots that have a slope greater than two-to-one (2:1) or that are submerged lands or tidelands shall be excluded from the land area of the lot for the purpose of determining the allowable number of units.
- (8) The floor area of a subterranean basement is not included in the calculation of total gross floor area.
- (9) The maximum gross floor area for a residential structure is determined by multiplying either 1.5 or 2.0 times the buildable area of the lot.
- (10) In the R-BI and R-2 Zoning Districts of Balboa Island, Balboa Peninsula, Corona del Mar, or West Newport, existing lots reconfigured by a lot merger, lot line adjustment, or parcel map after [EFFECTIVE DATE] that resulted in an increase in the lot width of more than fifty (50) percent, the maximum gross floor area permitted shall not exceed that which existed prior to the reconfiguration.



ADDITIONAL  
MATERIALS  
RECEIVED

# Residential Lot Merger Code Amendment

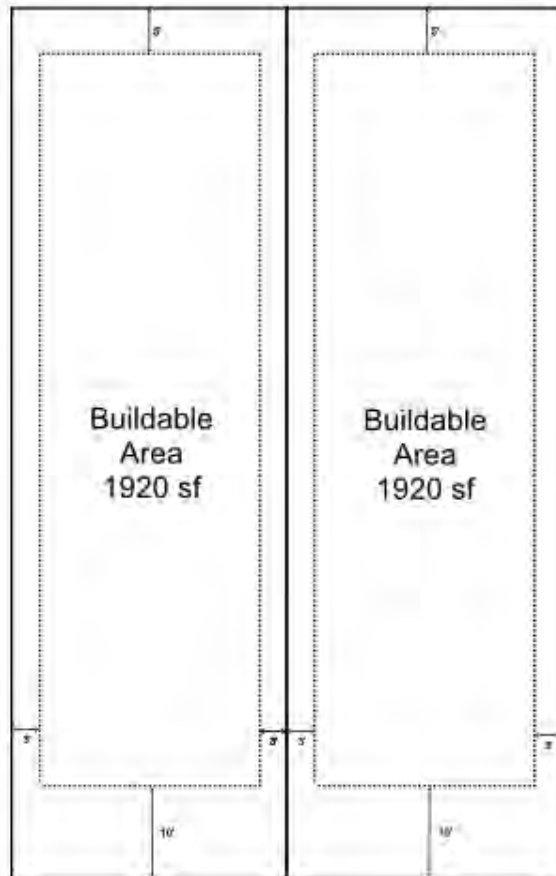


Planning Commission  
Public Hearing  
January 17, 2013

STAFF PRESENTATION (PA2012-102)

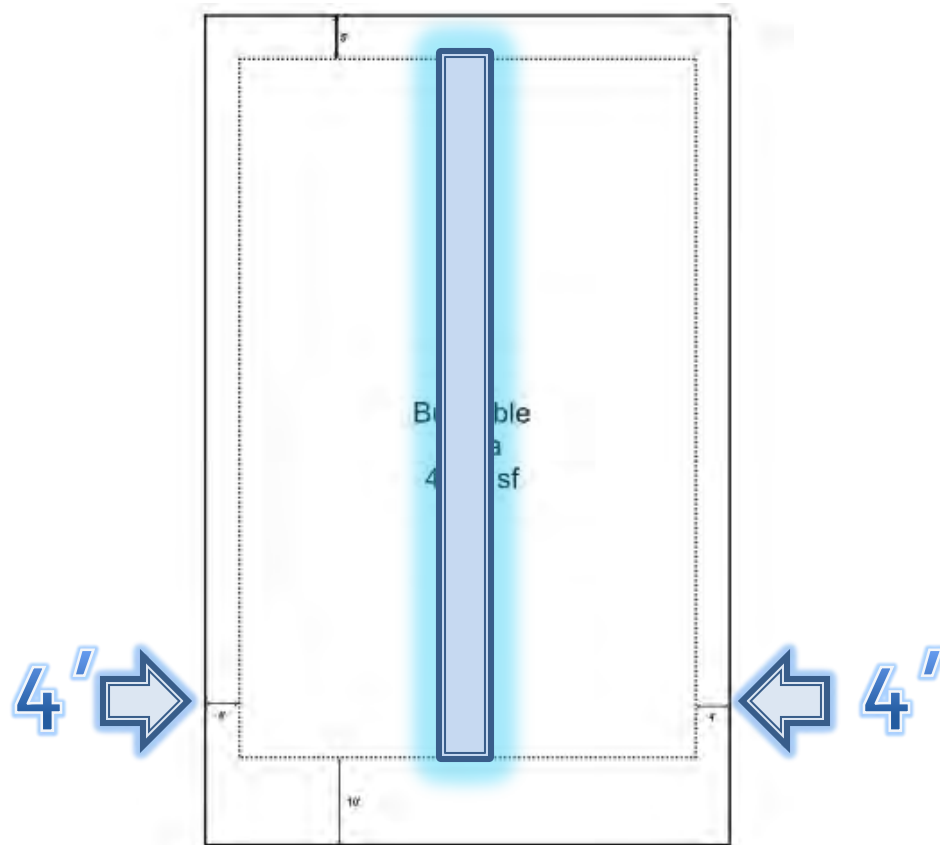


# Example



- Two 30' x 95' lots
- 1920 sf buildable each
- 3840 sf floor area each
- 7680 sf total floor area

# Example



- On 60' x 95' lot
- 4160 sf buildable area
- 8320 sf total floor area
- 8.33% increase

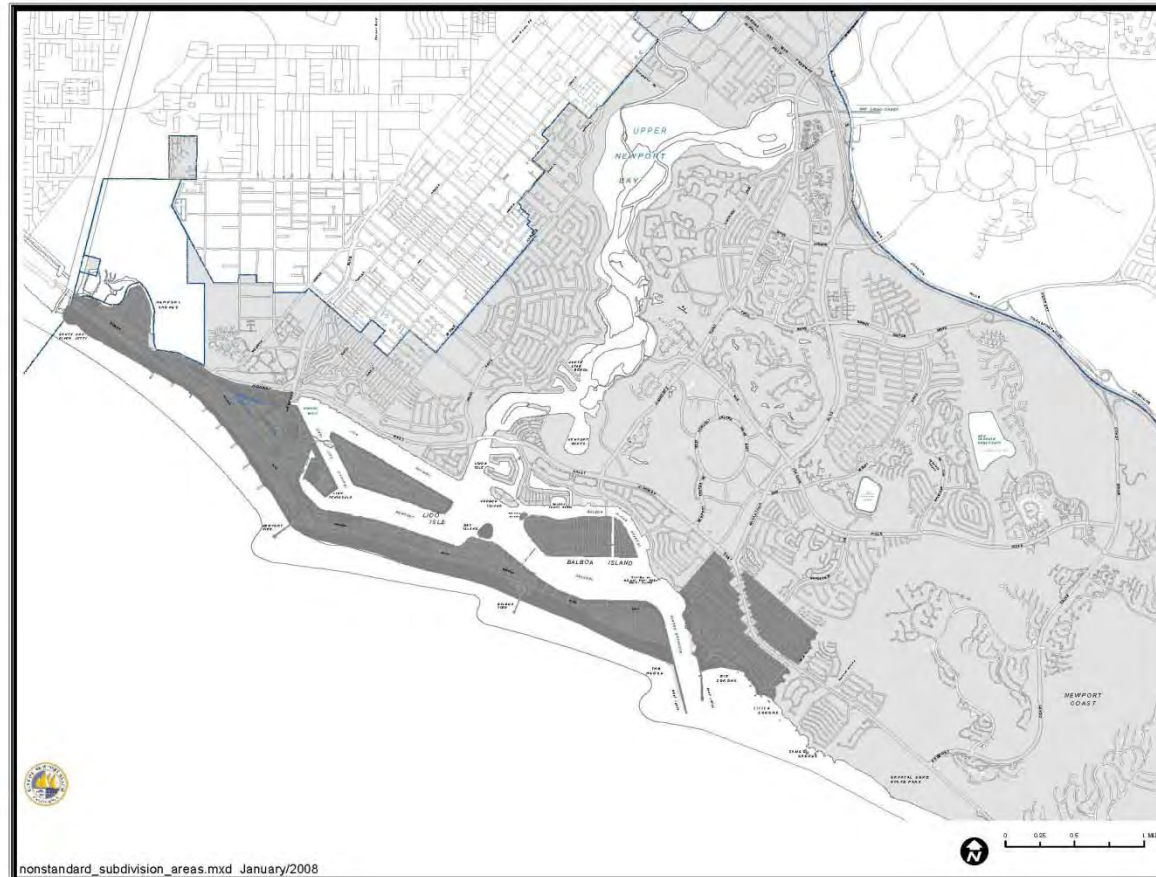
# Table 1

Table 1			
<b>Corona del Mar</b> - 30' x 118' lots (3540 sf each) with 20' front setback, 3' side setbacks, and 5' rear setback; 1.5 Floor Area Limit			
	<b>2 lots Developed Individually</b>	<b>2 Lots Merged</b>	<b>Increase</b>
Buildable (sf)	4,464	4,836	8.33%
Floor Area (sf)	6,696	7,254	
	<b>3 lots Developed Individually</b>	<b>3 Lots Merged</b>	<b>Increase</b>
Buildable (sf)	6,696	7,626	13.89%
Floor Area (sf)	10,044	11,439	
<b>Balboa Peninsula</b> - 30' x 95' lots (2850 sf each) with 10' front setback, 3' side setbacks, and 5' rear setback; 2.0 Floor Area Limit			
	<b>2 lots Developed Individually</b>	<b>2 Lots Merged</b>	<b>Increase</b>
Buildable (sf)	3360	3640	8.33%
Floor Area (sf)	6720	7280	
	<b>3 lots Developed Individually</b>	<b>3 Lots Merged</b>	<b>Increase</b>
Buildable (sf)	5,040	5,740	13.89%
Floor Area (sf)	10,080	11,480	
<b>Balboa Island</b> - 30' x 85' lots (2550 sf each) with 10' front setback, 3' side setbacks, and 5' rear setback; 1.5 Floor Area Limit			
	<b>2 lots Developed Individually</b>	<b>2 Lots Merged</b>	<b>Increase</b>
Buildable (sf)	2880	3120	8.33%
Floor Area (sf)	4320	6240	
	<b>3 lots Developed Individually</b>	<b>3 Lots Merged</b>	<b>Increase</b>
Buildable (sf)	4,320	7,380	13.89%
Floor Area (sf)	6,480	8,505	

# Key Provisions

- Future lot mergers, parcel maps, lot line adj.
- Lot width increase of more than 50 percent
- R-1, R-BI, and R-2 Zoning Districts
- West Newport, Balboa Peninsula, Lido Isle, Balboa Island, Corona del Mar
- No net increase in floor area

# Subject Communities



# Basic text of the proposed regulation/findings

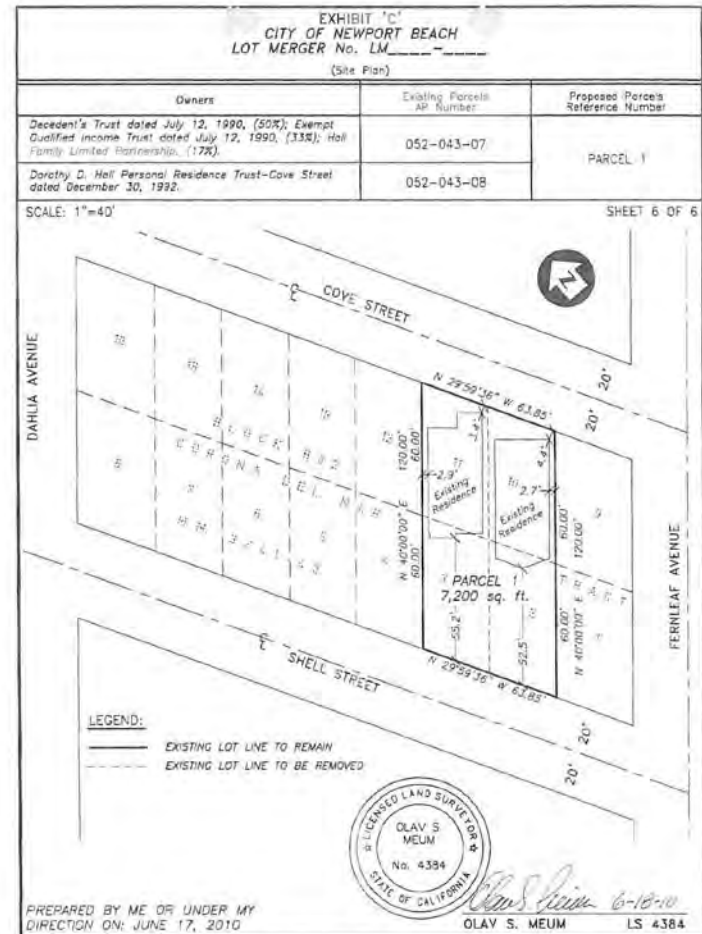
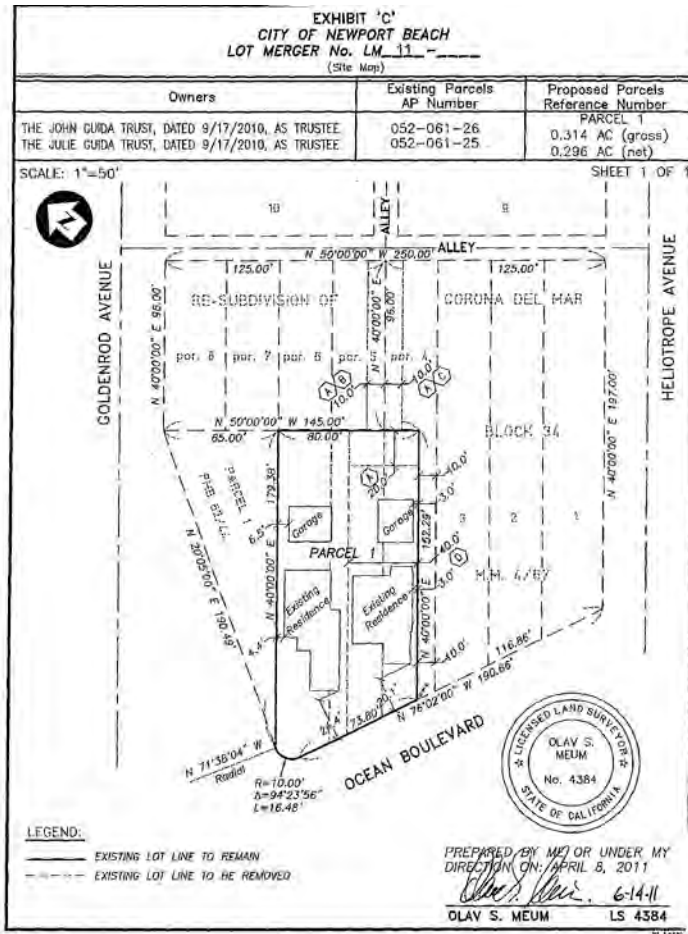
In the R-[\*] Zoning District[s] of Balboa Island, Balboa Peninsula, Corona del Mar, or West Newport: existing lots reconfigured by a lot merger, lot line adjustment, or parcel map after [EFFECTIVE DATE] that resulted in an increase in the lot width of more than fifty percent (50%) on the largest of the lots involved in the reconfiguration, the maximum gross floor area permitted on the lot shall not exceed the aggregate of that which would have otherwise been permitted if these lots were developed individually prior to the reconfiguration.

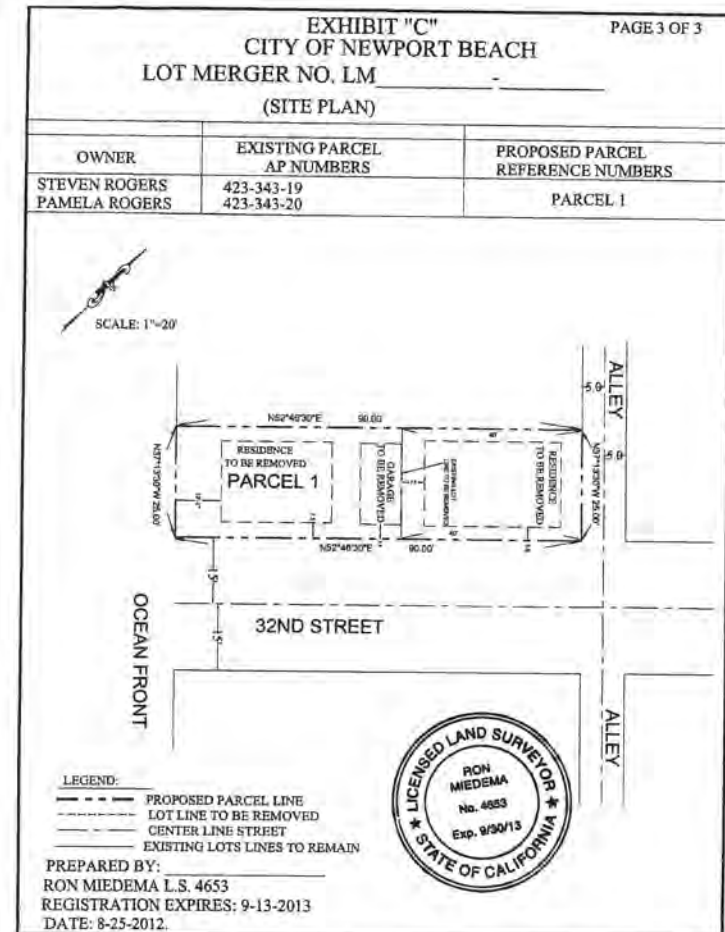
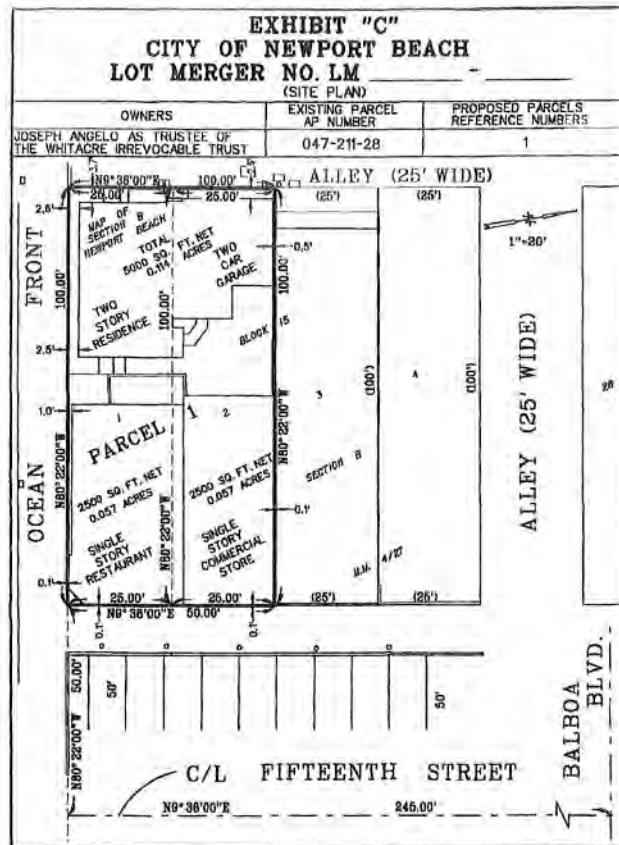


# Increased Setback Alternative

CdM									Max. Floor Area		
No. of Lots	WIDTH	DEPTH	LAND AREA	FRONT	SIDE	SIDE	REAR	BUILDABLE AREA	1	2	3
1	30	118	3540	20 600	3 279	3 279	5 150	2232 1308	3348	6696	10044
CdM - If merged									Max. Floor Area		
No. of Lots	WIDTH	DEPTH	LAND AREA	FRONT	SIDE	SIDE	REAR	BUILDABLE AREA	1	2	3
1	60	118	7080	20 1200	6 558	6 558	5 300	4464 2616		6696	21762
Balboa Peninsula									Max. Floor Area		
No. of Lots	WIDTH	DEPTH	LAND AREA	FRONT	SIDE	SIDE	REAR	BUILDABLE AREA	1	2	3
1	30	95	2850	10 300	3 240	3 240	5 150	1920 930	3840	7680	11520
Balboa Peninsula - If merged									Max. Floor Area		
No. of Lots	WIDTH	DEPTH	LAND AREA	FRONT	SIDE	SIDE	REAR	BUILDABLE AREA	1	2	3
1	60	95	5700	10 600	6 480	6 480	5 300	3840 1860		7680	24960
Balboa Island									Max. Floor Area		
No. of Lots	WIDTH	DEPTH	LAND AREA	FRONT	SIDE	SIDE	REAR	BUILDABLE AREA	1	2	3
1	30	85	2550	10 300	3 210	3 210	5 150	1680 870	2520	5040	7560
Balboa Island - If merged									Max. Floor Area		
No. of Lots	WIDTH	DEPTH	LAND AREA	FRONT	SIDE	SIDE	REAR	BUILDABLE AREA	1	2	3
1	60	85	5100	10 600	6 420	6 420	5 300	3360 1740		5040	16380

# Variables







For more information contact:

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949-644-3235  
[PAford@newportbeachca.gov](mailto:PAford@newportbeachca.gov)  
[www.newportbeachca.gov](http://www.newportbeachca.gov)

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**To:** PLANNING\_COMMISSION  
**Subject:** ADDITIONAL MATERIALS RECEIVED  
  
**Importance:** High  
**Sensitivity:** Confidential

Item No. 3b: Additional Materials Received  
Planning Commission January 17, 2013  
Residential Lot Merger Code Amendment (PA2012-102)

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**From:** Denys Oberman [<mailto:dho@obermanassociates.com>]  
**Sent:** Wednesday, January 16, 2013 5:02 PM  
**To:** Brown, Leilani  
**Subject:** Public Comment-Planning Commission for distribution and the record  
**Importance:** High  
**Sensitivity:** Confidential

PLEASE DISTRIBUTE AND ENTER INTO THE PUBLIC RECORD

MEMBERS OF THE PLANNING COMMISSION-  
Re. Public Hearing Item # 3 Residential Lot Merger Code Amendment

We support the position that with a lot merger/reconfiguration there be no greater increase in the maximum amount of floor area—and to mitigate for privacy ,noise and air impacts which would become more adverse if spacing between buildings was not preserved.

Additionally, for Fire code and safety reasons, it IS necessary to maintain the required setbacks to assure safety on a lot by lot basis,  
Regardless of configuration. Nowhere is this more important than the subject sites where there is already an exceptionally high level of density and narrow lots in the residential zones.

Regards,  
Denys H. Oberman, CEO



**OBERMAN Strategic Consulting & Transactions**  
2600 Michelson Drive, Suite 1700  
Irvine, CA 92612  
Tel (949) 476-0790  
Cell (949) 230-5868  
Fax (949) 752-8935  
Email: [dho@obermanassociates.com](mailto:dho@obermanassociates.com)

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**RESOLUTION NO. \_\_\_\_\_****A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH RECOMMENDING CITY COUNCIL ADOPTION OF CODE AMENDMENT NO. CA2012-007 RESTRICTING THE MAXIMUM ALLOWABLE RESIDENTIAL FLOOR AREA ON LOT RECONFIGURATIONS RESULTING IN LOT WIDTH INCREASES OF MORE THAN FIFTY PERCENT (PA2012-102)**

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

**SECTION 1. STATEMENT OF FACTS.**

1. On August 14, 2012, the City Council initiated an amendment of the Zoning Code and the Subdivision Code that would modify residential development standards so that the future merger of two or more lots in the single-unit and two-unit zoning districts of Balboa Island, Balboa Peninsula, Corona del Mar, Lido Isle, and West Newport would result in no net increase in the maximum allowable floor area that existed prior to the merger.
2. A public hearing was held on January 17, 2013, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting.

**SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.**

The code amendment is categorically exempt under Section 15305, of the California Environmental Quality Act (CEQA) Guidelines – Class 5 (Minor Alterations in Land Use Limitations) because the properties involved have an average slope of less than 20 percent; and the and proposed amendment would not result in any changes in land use or density.

**SECTION 3. FINDINGS.**

1. Parcel maps, lot line adjustments, and lot mergers can result in the elimination of setback areas resulting in larger buildable areas and potentially larger residential units.
2. The proposed amendment will modify the residential development standards of the R-1, R-BI, and R-2 Zoning Districts so that any existing lot in Balboa Island, Balboa Peninsula, Corona del Mar, Lido Isle, and West Newport that has been reconfigured by a lot merger, lot line adjustment, or parcel map that results in an increased lot width of more than fifty) percent (50%) on the largest of the lots involved in the reconfiguration, the maximum gross floor area permitted on the lot shall not exceed the aggregate of that which would have otherwise been permitted if the lots were developed individually prior to the reconfiguration.

**NOW, THEREFORE, BE IT RESOLVED:**

The Planning Commission of the City of Newport Beach hereby recommends approval of Code Amendment No. CA2012-007 as set forth in Exhibit "A."

**PASSED, APPROVED AND ADOPTED THIS \_17th DAY OF JANUARY, 2013.**

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: \_\_\_\_\_  
Michael Toerge, Chairman

BY: \_\_\_\_\_  
Fred Ameri, Secretary

**EXHIBIT A****Code Amendment No. CA2012-007****Section 19.12.070.A**

A. Required Findings for Approval. In approving a tentative tract map or tentative parcel map, the decision making body shall make all of the following findings:

1. That the proposed map and the design or improvements of the subdivision are consistent with the General Plan and any applicable specific plan, and with applicable provisions of the Subdivision Map Act and this Subdivision Code;
2. That the site is physically suitable for the type and density of development;
3. That the design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage nor substantially and avoidably injure fish or wildlife or their habitat. However, notwithstanding the foregoing, the decision making body may nevertheless approve such a subdivision if an environmental impact report was prepared for the project and a finding was made pursuant to Section 21081 of the California Environmental Quality Act that specific economic, social or other considerations make infeasible the mitigation measures or project alternatives identified in the environmental impact report;
4. That the design of the subdivision or the type of improvements is not likely to cause serious public health problems;
5. That the design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision. In this connection, the decision making body may approve a map if it finds that alternate easements, for access or for use, will be provided and that these easements will be substantially equivalent to ones previously acquired by the public. This finding shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to the City Council to determine that the public at large has acquired easements for access through or use of property within a subdivision;
6. That, subject to the detailed provisions of Section 66474.4 of the Subdivision Map Act, if the land is subject to a contract entered into pursuant to the California Land Conservation Act of 1965 (Williamson Act), the resulting parcels following a subdivision of the land would not be too small to sustain their agricultural use or the subdivision will result in residential development incidental to the commercial agricultural use of the land;
7. That, in the case of a "land project" as defined in Section 11000.5 of the California Business and Professions Code: (1) There is an adopted specific plan for the area to be included within the land project; and (2) the decision making body finds that the proposed land project is consistent with the specific plan for the area;



8. That solar access and passive heating and cooling design requirements have been satisfied in accordance with Sections 66473.1 and 66475.3 of the Subdivision Map Act;
9. That the subdivision is consistent with Section 66412.3 of the Subdivision Map Act and Section 65584 of the California Government Code regarding the City's share of the regional housing need and that it balances the housing needs of the region against the public service needs of the City's residents and available fiscal and environmental resources;
10. That the discharge of waste from the proposed subdivision into the existing sewer system will not result in a violation of existing requirements prescribed by the Regional Water Quality Control Board; ~~and~~
11. For subdivisions lying partly or wholly within the Coastal Zone, that the subdivision conforms with the certified Local Coastal Program and, where applicable, with public access and recreation policies of Chapter Three of the Coastal Act; ~~and~~
12. For subdivisions involving the reconfiguration of existing lots within the R-1, R-BI, and R-2 Zoning Districts of Balboa Island, Balboa Peninsula, Corona del Mar, Lido Isle, and West Newport, as identified in the Zoning Code: when the reconfiguration results in an increase in the lot width of more than fifty percent (50%) on the largest of the lots involved in the reconfiguration, the maximum gross floor area permitted on this lot shall not exceed the aggregate of that which would have otherwise been permitted if the lots were developed individually prior to the reconfiguration.

#### **Section 19.68.030.H**

H. Required Findings. All of the following findings shall be made prior to approval of a lot merger:

1. Approval of the merger will not, under the circumstances of this particular case, be detrimental to the health, safety, peace, comfort and general welfare of persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the City, and further that the proposed lot merger is consistent with the legislative intent of this title; and
2. The lots to be merged are under common fee ownership at the time of the merger; and
3. The lots as merged will be consistent or will be more closely compatible with the applicable zoning regulations and will be consistent with other regulations relating to the subject property including, but not limited to, the General Plan and any applicable Coastal Plan or Specific Plan; and
4. Neither the lots as merged nor adjoining parcels will be deprived of legal access as a result of the merger; and
5. The lots as merged will be consistent with the surrounding pattern of development and will not create an excessively large lot that is not compatible with the surrounding development.

6. Within the R-1, R-BI, and R-2 Zoning Districts of Balboa Island, Balboa Peninsula, Corona del Mar, Lido Isle, and West Newport, as identified in the Zoning Code: when lots as merged result in an increase in the lot width of more than fifty percent (50%), the maximum gross floor area permitted shall not exceed that which would have otherwise been permitted if these lots were developed individually prior to the reconfiguration.

#### **Section 19.76.020.I.6**

6. That the final configuration of a reoriented lot does not result in any reduction of the street side setbacks as currently exist adjacent to a front yard of any adjacent key lot, unless such reduction is accomplished through a zone change to establish appropriate street side setbacks for the reoriented lot. The Planning Commission and City Council in approving the zone change application shall determine that the street side setbacks are appropriate, and are consistent and compatible with the surrounding pattern of development and existing adjacent setbacks.

A. Within the R-1, R-BI, and R-2 Zoning Districts of Balboa Island, Balboa Peninsula, Corona del Mar, Lido Isle, and West Newport, as identified in the Zoning Code: when a lot line adjustment results in an increase in the lot width of more than fifty percent (50%) on the largest of the lots involved in the reconfiguration, the maximum gross floor area permitted on the lot shall not exceed the aggregate of that which would have otherwise been permitted if these lots were developed individually prior to the lot line adjustment.

**Section 20.18.030, Table 2-2****TABLE 2-2****DEVELOPMENT STANDARDS FOR SINGLE-UNIT  
RESIDENTIAL ZONING DISTRICTS**

<b>Development Feature</b>	<b>R-A</b>	<b>R-1</b>	<b>R-1- 6,000</b>	<b>R-1- 7,200</b>	<b>R-1- 10,000</b>	<b>Additional Requirements</b>
Lot Dimensions	Minimum dimensions required for each newly created lot.					
Lot Area (1) (2)						
Corner lot	87,120 sq. ft.	6,000 sq. ft.	6,000 sq. ft.	7,200 sq. ft.	10,000 sq. ft.	
Interior lot	87,120 sq. ft.	5,000 sq. ft.	6,000 sq. ft.	7,200 sq. ft.	10,000 sq. ft.	
Lot Width						
Corner lot	125 ft.	60 ft.	60 ft.	70 ft.	90 ft.	
Interior lot	125 ft.	50 ft.	60 ft.	70 ft.	90 ft.	
Lot Depth	N/A	N/A	80 ft.	90 ft.	100 ft.	
Density/Intensity	Each legal lot shall be allowed one single-unit detached dwelling.					
Setbacks	The distances below are minimum setbacks required for primary structures. See Section 20.30.110 (Setback Regulations and Exceptions) for setback measurement, allowed projections into setbacks, and exceptions. The following setbacks shall apply, unless different requirements are identified on the setback maps in which case the setback maps shall control. (See Part 8 of this title.) Side and rear setback areas shown on the setback maps shall be considered front setback areas for the purpose of regulating accessory structures. Also refer to Section 20.48.180 (Residential Development Standards and Design Criteria).					
Front:	20 ft.	20 ft.	20 ft.	20 ft.	15 ft.	20.30.110 20.48.180
Side (interior, each):						20.30.110 20.48.180
Lots 40 ft. wide or less	5 ft.	3 ft. (4)	6 ft.	5 ft.	10 ft.	
Lots wider than 40 ft.	5 ft.	4 ft.	6 ft.	5 ft.	10 ft.	
Side (street side):						20.30.110 20.48.180
Lots 40 ft. wide or less	5 ft.	3 ft.	6 ft.	5 ft.	10 ft.	
Lots wider than 40 ft.	5 ft.	4 ft.	6 ft.	5 ft.	10 ft.	
Rear:	25 ft.	10 ft.	6 ft.	20 ft.	10 ft.	Lots abutting a 10

Abutting Alley:						ft. alley or less that are directly across the alley from the side yard of a lot abutting an alley shall provide a setback for the first floor of at least 10 ft. from the alley.
10 ft. wide or less	N/A	5 ft.	N/A	N/A	N/A	
15 ft. wide or less	N/A	5 ft.	N/A	N/A	N/A	
15'1" to 19'11"	N/A	3'9"	N/A	N/A	N/A	
20 ft. wide or more	N/A	0	N/A	N/A	N/A	
Bluff edge setback	As provided in Section 20.28.040 (Bluff (B) Overlay District).					
Bulkhead setback	Structures shall be set back a minimum of 10 ft. from the bulkhead in each zoning district.					
Site Coverage	Maximum percentage of the total lot area that may be covered by structures.					
Lots 40 ft. wide or less	N/A	N/A	60%	60%	60%	
Lots wider than 40 ft.	40%	N/A	60%	60%	60%	
Floor Area Limit (gross floor area)	N/A		N/A			
Citywide		2.0 (5)(6) (7)				
Corona del Mar		1.5 (5)(6) (7)				
Height (3)	Maximum height of structures without discretionary approval. See Section 20.30.060(C) (Increase in Height Limit) for possible increase in height limit.					
Flat roof	24 ft.	24 ft.	24 ft.	35 ft. and 2 stories	24 ft.	See 20.30.060(C)(2) (Height Limit Areas) and 20.30.060(B) (Height of Structures and Measurement)
Sloped roof; minimum 3/12 pitch	29 ft.	29 ft.	29 ft.	40 ft. and 2 stories	29 ft.	
Bluffs	See Section 20.28.040 (Bluff (B) Overlay District).					
Fencing	See Section 20.30.040 (Fences, Hedges, Walls, and Retaining Walls).					
Landscaping	See Chapter 20.36 (Landscaping Standards).					
Lighting	See Section 20.30.070 (Outdoor Lighting).					
Parking	See Chapter 20.40 (Off-Street Parking).					
Satellite Antennas	See Section 20.48.190 (Satellite Antennas and Amateur Radio Facilities).					
Signs	See Chapter 20.42 (Sign Standards).					

Residential Development Standards	See Section 20.48.180 (Residential Development Standards and Design Criteria).
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## Notes:

- (1) All development and the subdivision of land shall comply with the requirements of Title 19 (Subdivisions).
- (2) Lots may be subdivided so that the resulting lot area and dimensions for each new lot are less than that identified in this table in compliance with the provisions of Title 19 (Subdivisions). The minimum lot size shall not be less than the original underlying lots on the same block face and in the same zoning district. Lot width and length may vary according to the width and depth of the original underlying lots. New subdivisions that would result in additional dwelling units beyond what the original underlying lots would allow are not permitted unless authorized by an amendment of the General Plan (GPA).
- (3) On the bluff side of Ocean Boulevard, the maximum height shall not exceed the elevation of the top of the curb abutting the lot.
- (4) Side setback areas for lots designated Special Fire Protection Areas shall be a minimum of five feet unless reduced by the Fire Marshal.
- (5) The floor area of a subterranean basement is not included in the calculation of total gross floor area.
- (6) The maximum gross floor area for a residential structure is determined by multiplying either 1.5 or 2.0 times the buildable area of the lot.
- (7) In the R-1 Zoning District of Balboa Island, Balboa Peninsula, Corona del Mar, Lido Isle, or West Newport: existing lots reconfigured by a lot merger, lot line adjustment, or parcel map after [EFFECTIVE DATE] that results in an increase in the lot width of more than fifty percent (50%) on the largest of the lots involved in the reconfiguration, the maximum gross floor area permitted on the lot shall not exceed the aggregate of that which would have otherwise been permitted if these lots were developed individually prior to the reconfiguration.

**TABLE 2-3****DEVELOPMENT STANDARDS FOR TWO-UNIT AND MULTI-UNIT  
RESIDENTIAL ZONING DISTRICTS**

<b>Development Feature</b>	<b>R-BI</b>	<b>R-2</b>	<b>R-2-6,000</b>	<b>Additional Requirements</b>
Lot Dimensions	Minimum dimensions required for each newly created lot.			
Lot Area (1) (2) (3)				
Corner lot	2,375 sq. ft.	6,000 sq. ft.	6,000 sq. ft.	
Interior lot	2,375 sq. ft.	5,000 sq. ft.	6,000 sq. ft.	
Lot Width				
Corner lot	60 ft.	60 ft.	60 ft.	
Interior lot	50 ft.	50 ft.	60 ft.	
Lot Depth	N/A	N/A	80 ft.	
Site Area per Dwelling Unit	Minimum required site area per dwelling unit based on net area of the lot.			
	1,000 sq. ft.	1,000 sq. ft.	3,000 sq. ft.	
	No more than 2 units per lot			
Site Coverage	Maximum percentage of the total lot area that may be covered by structures.			
	N/A	N/A	60%	
Floor Area Limit (9) (gross floor area)	1.5 plus 200 sq. ft. <u>(10)</u>	2.0 Citywide (8) 1.5 Corona del Mar (8) <u>(10)</u>	N/A	
Setbacks	The distances below are minimum setbacks required for primary structures. See Section 20.30.110 (Setback Regulations and Exceptions) for setback measurement, allowed projections into setbacks, and exceptions. The following setbacks shall apply, unless different requirements are identified on the setback maps in which case the setback maps shall control. (See Part 8 of this title.) Side and rear setback areas shown on the setback maps shall be considered front setback areas for the purpose of regulating accessory structures. Also refer to Section 20.48.180 (Residential Development Standards and Design Criteria).			
Front:	20 ft.	20 ft.	20 ft.	

Side (interior, each):				
Lots 40 ft. wide or less	3 ft.	3 ft.	6 ft.	
Lots 40'1" wide to 49'11" wide	4 ft.	4 ft.	6 ft.	
Lots 50 ft. wide and greater	N/A	4 ft.	6 ft.	
Side (street side):				
Lots 40 ft. wide or less	3 ft. <u>(10)</u>	3 ft.	N/A	
Lots 40'1" wide to 49'11" wide	4 ft.	4 ft.	N/A	
Lots 50 ft. wide and greater	N/A	N/A	6 ft.	
Rear:	10 ft.	10 ft.	6 ft.	Lots abutting a 10 ft. alley or less that are directly across the alley from the side yard of a lot abutting the alley shall provide a setback for the first floor of at least 10 ft. from the alley.
Abutting Alley				
10 ft. wide or less	5 ft.	5 ft.	N/A	
15 ft. wide or less	5 ft.	5 ft.	N/A	
15'1" to 19'11"	3'9"	3'9"	N/A	
20 ft. wide or more	0	0	N/A	
Waterfront	10 ft.	10 ft.	N/A	
Bluff edge setback	As provided in Section 20.28.040 (Bluff (B) Overlay District).			
Bulkhead setback	Structures shall be set back a minimum of 10 ft. from the bulkhead in each zoning district.			
Height (6)	Maximum height of structures without discretionary approval. See Section 20.30.060(C) (Increase in Height Limit) for possible increase in height limit.			
Flat roof	24 ft.	24 ft.	24 ft.	See Section 20.30.060(C) (Increase in Height Limit)
Sloped roof; minimum 3/12 pitch	29 ft.	29 ft.	29 ft.	
Bluffs	See Section 20.28.040 (Bluff (B) Overlay District).			
Fencing	See Section 20.30.040 (Fences, Hedges, Walls and Retaining Walls).			
Landscaping	See Chapter 20.36 (Landscaping Standards).			
Lighting	See Section 20.30.070 (Outdoor Lighting).			
Parking	See Chapter 20.40 (Off-Street Parking).			

Satellite Antennas	See Section 20.48.190 (Satellite Antennas and Amateur Radio Facilities).
Signs	See Chapter 20.42 (Sign Standards).
Residential Development Standards	See Section 20.48.180.

## Notes:

- (1) All development and the subdivision of land shall comply with the requirements of Title 19 (Subdivisions).
- (2) Lots may be subdivided so that the resulting lot area and dimensions for each new lot are less than that identified in this table in compliance with the provisions of Title 19 (Subdivisions). The minimum lot size shall not be less than the original underlying lots on the same block face and in the same zoning district. Lot width and length may vary according to the width and depth of the original underlying lots. New subdivisions that would result in additional dwelling units beyond what the original underlying lots would allow are not permitted unless authorized by an amendment of the General Plan (GPA).
- (3) On a site of less than five thousand (5,000) square feet that existed prior to March 10, 1976, a two-family dwelling may be constructed; provided, that there shall be not less than one thousand (1,000) square feet of land area for each dwelling unit.
- (4) The total gross floor area contained in all buildings and structures on a development site shall not exceed 1.75 times the buildable area of the site or 1.5 times the buildable area of the site in Corona del Mar; provided, that up to two hundred (200) square feet of floor area per required parking space devoted to enclosed parking shall not be included in calculations of total gross floor area.
- (5) Interior and street side setback areas are not required to be wider than fifteen (15) feet; however, the side setback area on the street side of a corner lot, where the abutting lot has a reversed frontage, shall not be less than the front setback area required on the abutting reversed frontage.
- (6) On the bluff side of Ocean Boulevard, the maximum height shall not exceed the elevation of the top of the curb abutting the lot.
- (7) Portions of legal lots that have a slope greater than two-to-one (2:1) or that are submerged lands or tidelands shall be excluded from the land area of the lot for the purpose of determining the allowable number of units.
- (8) The floor area of a subterranean basement is not included in the calculation of total gross floor area.
- (9) The maximum gross floor area for a residential structure is determined by multiplying either 1.5 or 2.0 times the buildable area of the lot.
- (10) In the R-BI and R-2 Zoning Districts of Balboa Island, Balboa Peninsula, Corona del Mar, or West Newport: existing lots reconfigured by a lot merger, lot line adjustment, or parcel map after [EFFECTIVE DATE] that resulted in an increase in the lot width of more than fifty percent (50%) on the largest of the lots involved in the reconfiguration, the maximum gross floor area permitted on the lot shall not exceed the aggregate of that which would have otherwise been permitted if these lots were developed individually prior to the reconfiguration.



**CITY OF NEWPORT BEACH  
PLANNING COMMISSION STAFF REPORT**

January 17, 2013, Planning Commission Meeting  
Agenda Item No. 4

**SUBJECT:** City Hall Complex Reuse Amendments - (PA2012-031)  
3300 Newport Boulevard and 475 32<sup>nd</sup> Street

- General Plan Amendment No. GP2012-002
- Coastal Land Use Plan Amendment No. LC2012-001
- Zoning Code Amendment No. CA2012-003

**APPLICANT:** City of Newport Beach

**PLANNER:** James Campbell, Principal Planner  
949-644-3210, jcampbell@newportbeachca.gov

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**PROJECT SUMMARY**

Amendments of the General Plan, Coastal Land Use Plan, and Zoning Code to change the land use designation and zoning of the existing City Hall Complex from Public Facilities to Mixed-Use to allow for future reuse of the site. The amendments will also establish development standards for future development projects including a higher height limit and increased setbacks and open space.

**RECOMMENDATION**

- 1) Conduct a public hearing;
- 2) Adopt the attached resolution recommending City Council adoption of the City Hall Reuse Project Initial Study/Mitigated Negative Declaration (SCH# 2012111074) including a Mitigation Monitoring and Reporting Program pursuant to the California Environmental Quality Act (Attachment PC-1); and
- 3) Adopt the attached resolution recommending City Council approval of General Plan Amendment No. GP2012-002, Coastal Land Use Plan Amendment No. LC2012-001, and Zoning Code Amendment No. CA2012-003 (Attachment No. PC-2).

**INTRODUCTION**

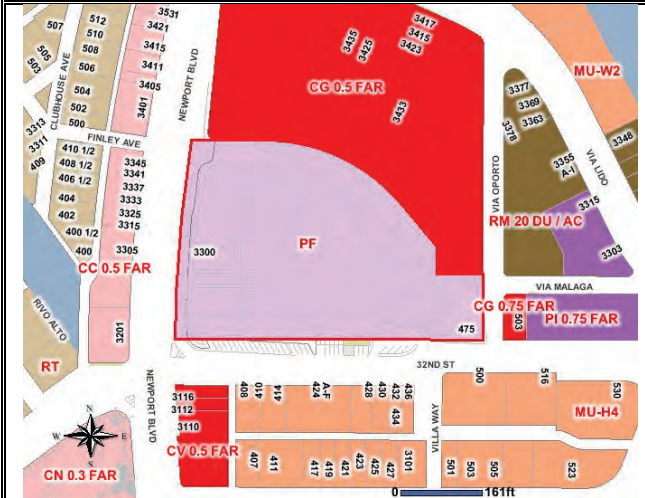
The existing City Hall Complex is located at the north-east corner of Newport Boulevard and 32<sup>nd</sup> Street, and it is currently developed with Newport Beach City Hall and Fire Station #2 within approximately 54,000 square feet of building area. The site is 4.26 gross acres with approximately 3.96 acres usable, as a portion of the site is devoted to Newport Boulevard. The General Plan, Coastal Land Use Plan, and the Zoning Map designate the site as Public Facilities and no intensity limit currently applies.



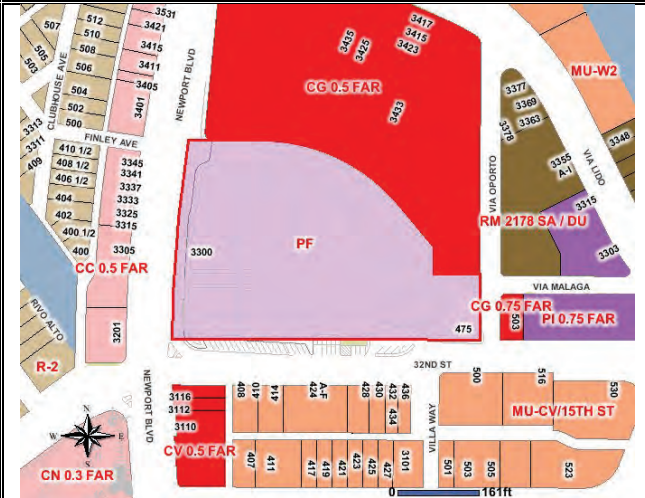
## VICINITY MAP



## GENERAL PLAN



## ZONING





LOCATION	GENERAL PLAN	ZONING	CURRENT USE
<b>SITE</b>	Public Facilities	PF (Public Facilities)	Government office, fire station
<b>NORTH</b>	General Commercial	CG 0.5 FAR (General Commercial)	Retail, office, theater
<b>SOUTH</b>	Visitor-Serving Commercial & Mixed Use Horizontal 4	CV 0.5 FAR (Visitor Serving Commercial & MU-CV/15 <sup>th</sup> St (Mixed Use Cannery Village/15 <sup>th</sup> St.)	Retail, restaurant, office, personal service commercial, private club, residential
<b>EAST</b>	General Commercial & Multi-Family Residential	CG 0.75 FAR (General Commercial) & RM 2178 Sq. ft./DU	Office, restaurant
<b>WEST</b>	Corridor Commercial	CC 0.5 FAR (Corridor Commercial)	Retail, restaurant, office, service commercial, gas station

The project involves amendments to policy and regulatory documents only and does not authorize a specific development project or use.

### 1. General Plan Amendment

The amendment includes a text and map change to replace the existing Public Facilities (PF) designation for the site with a new mixed-use land use category (MU-H5) and establish density and intensity limits within Table LU-2 of the Land Use Element. The proposed amendment is within Exhibit B of Attachment PC-2 starting on Page 35. No other changes to the General Plan are proposed and all other provisions would remain unchanged.

### 2. Coastal Land Use Plan Amendment (CLUP)

The amendment includes a text and map change to replace the existing Public Facilities (PF) designation for the site with a new mixed-use land use category (MU) and establish density and intensity limits within Table 2.1.1-1. The proposed amendment also includes a change to Policy 4.4.2-1 to establish a policy basis for higher height limits. The proposed amendment is within Exhibit C of Attachment PC-2 starting on Page 37. No other changes to the CLUP are proposed and all other provisions would remain unchanged.

### 3. Zoning Code Amendment

The amendment includes a text and map change to replace the existing Public Facilities (PF) zoning designation for the site with a new zone MU-LV (Mixed-Use-Lido Village) and establish density and intensity limits consistent with the proposed General Plan amendment (Anomaly #80). Development standards and allowed uses would also be established. The proposed amendment is within Exhibit D of Attachment PC-2 starting on Page 40. No other changes to the Zoning Code are proposed and all other provisions would remain unchanged.

## Background

Planning for the reuse of the existing City Hall Complex was initiated in the summer of 2010 by the City Council as part of a broader effort to revitalize Lido Village. The initial effort culminated with the January 2011, City Council approval of “Conceptual Plan 5B” for the Lido Village area. The 5B Plan was only a concept plan that provides a future vision for Lido Village including the existing City Hall Complex. The plan suggested the complete redevelopment of the 4-acre complex with community services, market rate apartments, a fire station, and/or live-work units.

The City then embarked upon the Neighborhood Revitalization process for several areas of the City including Lido Village. The process was guided by the City Council ad-hoc Neighborhood Revitalization Committee (“NRC”) and a Citizens Advisory Panel (“CAP”). This process led to the adoption of the Lido Village Design Guidelines in January of 2012. The Guidelines do not address future land uses but they describe the overall design theme for future development within Lido Village.

Planning for the site continued within a broader context taking into account the West Newport Facilities Conceptual Plan, possible improvements to the adjacent Via Lido Plaza, and surrounding streets. In consideration of these possibilities, an alternative development plan for Lido Village was prepared and considered by the City Council on March 27, 2012. The alternative plan included a lot line adjustment between the City Hall site and the adjacent Via Lido Plaza property, 92 market-rate apartments, 6,000 square feet of retail use, and a 512-space parking structure. A key assumption of that alternative site plan was to create a pedestrian promenade (linkage) from the City’s property across Via Lido Plaza to the Bay/Harbor area that recognizes existing building locations. The City Council took no action on the alternative site plan.

On April 24, 2012, the City Council directed staff to prepare necessary amendments of the General Plan, Coastal Land Use Plan, and Zoning Code to support re-use of the site for a variety of potential land uses. Uses being considered included commercial, residential, and/or civic uses that could include a community center, public plazas, a fire station and/or public parking. Staff returned to the City Council on June 24, 2012, with an outline of what the amendments would provide and the City Council requested additional information regarding the possibility of using the site for a boutique hotel.

After subsequent market and economic feasibility analysis, the City Council included visitor accommodations in the land use mix and the City Council also discussed the framework of a Request for Qualifications (“RFQ”) process to select a qualified partner to assist the City in developing the site for either a luxury apartment community or an upscale boutique hotel. On September 25, 2012, the City Council identified density and intensity limits for the proposed General Plan Amendment such that a vote of the electorate would not be required pursuant to Charter Section 423 (“Measure S”) and directed staff to issue an RFQ to gauge interest in developing the site and to ultimately find a development partner. The RFQ process is underway and on January 8, 2013, the

City Council selected 6 teams (3 hotel developers and 3 mixed-use/housing developers) to proceed to the next phase where development proposals will be prepared.

## **DISCUSSION**

### Analysis

#### *General Plan*

The proposed General Plan Amendment (“GPA”) would provide for a future mixed-use development consisting residential and possibly ancillary retail uses or visitor accommodations including accessory commercial and meeting spaces, municipal uses including a community center, public plazas, a fire station and/or public parking. The proposed designation provides sufficient flexibility to identify future development opportunities to meet the community’s needs.

Staff and the environmental consultant prepared a land use policy consistency analysis that is contained in the Initial Study/Mitigated Negative Declaration (“MND”) starting on Page 82 (Exhibit B of PC-1). In summary, no policy conflicts were noted and staff believes future uses consistent with the proposed General Plan designation would be compatible with existing uses and surrounding commercial and residential designations. These conclusions were reached considering the proposed increase in building height, setbacks, and open space within the context of the existing developed environment that includes several taller buildings. Potential impacts to public views are discussed below in conjunction with the proposed Coastal Land Use Plan Amendment.

The proposed density and intensity limits were identified to avoid traffic and air quality impacts to the community. Four different development scenarios were evaluated by staff and although daily traffic trips will increase if the site is fully buildout, future project increases would be below 300 average daily trips and a traffic study would not be required pursuant to the Traffic Phasing Ordinance. Peak hour trips were also predicted and in each of the likely development scenarios, peak hour traffic will be reduced. The analysis is provided in the MND starting on Page 111.

#### *Charter Section 423 (“Measure S”)*

Charter Section 423 requires an analysis of the density, intensity, and peak hour traffic associated with a proposed GPA. When increases in density, intensity, and peak hour traffic of a proposed GPA<sup>1</sup> along with 80% of the increases of prior amendments exceed specified thresholds, the proposed GPA is considered to be a “major amendment” that requires voter approval. The specified thresholds are 100 dwelling units (density), 40,000 square feet of floor area (intensity), and 100 peak hour trips (traffic). City Council

<sup>1</sup> Increases above the maximum density and intensity, and associated peak hour trips, allowed by the General Plan prior to the amendment.

Policy A-18 establishes the Guidelines for implementation of City Charter Section 423 and provides specific guidance as to the density, intensity and traffic thresholds for the analysis.

The City Hall Complex is located within Statistical Area B-5 and the City has approved two prior amendments. Table 1 identifies the increases in density, intensity, and peak hour traffic associated with the two prior amendments.

**Table 1**

<b>Statistical Area B-5: Prior Amendment Increases</b>				
<b>Amendment</b>	<b>Increase in density<sup>(1)</sup></b>	<b>Increase in intensity<sup>(2)</sup></b>	<b>Peak Hour Trip Increase</b>	
			<b>AM</b>	<b>PM</b>
GP 2010-005	0	15,103	45.4	60.5
GP 2011-003	1	4,053	12.7	16.8
Total Increases	1	19,156	58.1	77.3
80% Total Increases	1 <sup>(3)</sup>	15,235 <sup>(3)</sup>	46.5	61.9

(1) Measured in dwelling units

(2) Measured in gross floor area

(3) Rounded to nearest whole number

The existing General Plan land use category of Public Facilities does not list residential uses, and as a result, the existing allowed residential density for the site is zero (0) dwelling units. Given that prior amendments have authorized one (1) additional unit, an amendment authorizing residential development of up to 99 units would not exceed the threshold identified by Charter Section 423, and would not require voter approval.

As to the intensity thresholds identified by Charter Section 423, the existing General Plan does not establish a limit on floor area for the intensity for the Public Facilities land use category. Rather, Land Use Policy 6.1.1 indicates that the needs of Newport Beach's residents and businesses will determine the type and size of necessary facilities. Absent a specified maximum intensity, the "plan to plan" analysis would indicate that changes to the site's intensity would not require voter approval.

However, when the General Plan Update was approved in 2006, the City had commissioned a traffic study that assumed that the existing City Hall site would be expanded to 75,000 square feet. Therefore, staff has conservatively used the 2006 General Plan Update traffic assumption for the purpose of analyzing the Charter Section 423 thresholds. Tables 2 and 3 reflect staff's analysis as to development density and intensity, and the resulting peak hour trips, which would not require voter approval pursuant to Charter Section 423.



**Table 2**

<b>Measure S Analysis for Proposed Mixed-Use Project</b>				
	Density (Units)	Intensity (Square Feet)	Peak Hour Traffic	
			AM	PM
Existing General Plan land use maximum (credit)	0	75,000 <sup>(1)</sup>	166	214
Proposed Mixed-use project maximum	99	15,000	95	121
Amendment difference	99	(60,000)	-71	-93
Vote Required	No	No	No	No
80% of prior amendments	1	15,325	46	62
Total	100	15,325	46	62
Vote Required	No	No	No	No

(1) General Plan Transportation Study, 3/22/2006, Urban Crossroads

**Table 3**

<b>Measure S Analysis for Proposed Hotel Project</b>			
	Intensity (Square Feet)	Peak Hour Traffic	
		AM	PM
Existing General Plan building area maximum (credit)	75,000 <sup>(1)</sup>	166	214
Proposed hotel building area maximum	99,675	74	78
Amendment difference	24,675	-92	-136
Vote Required	No	No	No
80% of prior amendments	15,325	46	62
Total	40,000	46	62
Vote Required	No	No	No

(1) General Plan Transportation Study, 3/22/2006, Urban Crossroads

The building area for the fire station was not counted in the intensity analysis. The basis for this assumption is that the majority of the fire station is a vehicle garage, and parking garages are not included in the calculation of floor area under the General Plan. Additionally, the Institute of Traffic Engineers ("ITE") does not identify peak hour trip generation rates for fire stations.

Therefore, in consideration of the residential, floor area and traffic limitations established by Charter Section 423, staff has concluded that the proposed density and intensity limit of the proposed GPA would not require voter approval.

#### *Coastal Land Use Plan ("CLUP")*

The proposed Coastal Land Use Plan Amendment provides a land use category that is consistent with the proposed GPA in terms of land use, density and intensity. Staff and the environmental consultant prepared a CLUP policy consistency analysis that is

contained in the Initial Study/Mitigated Negative Declaration (“MND”) starting on Page 90.

Given the proposed density and intensity of use, the need to establish a higher height limit was identified. Policy 4.4.2-1 provides a 35-foot height limit and in order to consider a future development project with higher building heights, an amendment to the policy is necessary. The following draft amendment is proposed for consideration:

*“Mixed Use (MU) area located at 3300 Newport Boulevard (former City Hall Complex): Buildings and structures up to 55 feet in height, provided it is demonstrated that development does not negatively impact public views. Peaks of sloping roofs and elevator towers may exceed 55 feet by up to 5 feet and architectural features such as domes, towers, cupolas, spires, and similar structures may exceed 55 feet by 10 feet. The purpose of allowing buildings, structures and architectural elements to exceed 35 feet is to promote vertical clustering resulting in increased publically accessible on-site open space and architectural diversity while protecting existing coastal views and providing new coastal view opportunities.”*

The language of the amendment provides protection of coastal views. General Plan and Coastal Land Use Plan policies protect public views from certain roadways and parks. The MND provides an analysis of potential impacts to public views from designated viewpoints located nearby, specifically Sunset View Park and Cliff Drive Park. Other vantages where public views are protected were not included due to extended distances. Future development of the site, consistent with the proposed amendment, would result in structures that will be visible from Sunset View Park and Cliff Drive Park, however, due to the extended distance and elevation of these vantage points in relation to the project site, future development of the site will blend into the urban background and not block any important focal points within existing public views from these vantages. No significant public views through or near the project site are present in the immediate vicinity of the project site. For these reasons, the analysis concludes that there will be no impact to coastal views and no inconsistency with public view protection policies of the General Plan or CLUP. As a result, a finding of consistency with applicable policies of the Coastal Act can be made for the proposed amendment.

Development of high-cost visitor accommodations may result in a need to mitigate impacts to lower-cost accommodations. This issue will be considered by the California Coastal Commission (“CCC”) only if the City approves a future development application that includes high-cost visitor accommodations and if a nexus between an impact and the future development project is identified.

The proposed CLUP amendment will require certification by the CCC before future development can commence.

## Zoning Code

The proposed Zoning Code Amendment provides allowed uses and density and intensity limits consistent with the proposed GPA. Given the proposed density and intensity of use, a higher height limit is necessary. Staff identified a principal limit at 55 feet to accommodate 4-story development. Given structures of this height, increased setbacks, and a minimum open space requirement were included to promote more compatible development.

**Allowed Uses:** Retail, commercial offices (non-medical), visitor accommodations, multi-unit residential, community center, fire station, public parking facility.

**Height:** 55 feet to flat roofs measured to the top of parapet walls. The peaks of sloping roofs and elevator towers may be up to 60 feet in height and architectural features such as domes, towers, cupolas, spires, and similar structures may be 65 feet in height.

**Setbacks:**

Location	Structure type	Setback from Property Line
Newport Boulevard	Subterranean	0 feet
	1 <sup>st</sup> & 2nd floor <sup>(1)</sup>	20 feet
	Above 2nd floor <sup>(2)</sup>	35 feet
32 <sup>nd</sup> Street	Subterranean	0 feet
	1 <sup>st</sup> & 2nd floor <sup>(1)</sup>	1 foot
	Above 2nd floor <sup>(2)</sup>	10 feet
Interior	Subterranean	0 feet
	Above grade	5 feet

<sup>(1)</sup> No more than 26 feet above existing grade

<sup>(2)</sup> More than 26 feet above existing grade

**Open Space:** Minimum 20 percent

It is important to note that a future mixed-use project may include ancillary retail uses and a possible hotel project would include accessory meeting space and commercial uses (i.e. retail, restaurants, spa, etc.) and it could include a complementary residential component. No other changes to the Zoning Code are recommended, and as such, a future project would be subject to all other zoning regulations including parking requirements, typical procedural requirements, and compliance with the Lido Village Design Guidelines.

The Planning Commission would review a future project at a noticed public hearing and the process would not differ from standard practice for a project of this type. Typical findings of consistency with applicable policies and zoning standards including the Lido

Village Design Guidelines would be necessary for the Planning Commission to approve a future development project. A future development project would also be subject to California Environmental Quality Act ("CEQA") review. Staff believes that the proposed zoning standards for uses, density and intensity, development standards, and future public review would result in development compatible with the area.

### Environmental Review

An Initial Study/Mitigated Negative Declaration (MND) has been prepared by planning staff, in accordance with the implementing guidelines of the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and City Council Policy K-3. The MND is included as Exhibit B of Attachment PC-1. A copy of the MND was also made available on the City's website, at each Newport Beach Public Library, and at the Community Development Department at City Hall. The MND was made available for public review for a 30-day comment period beginning November 26, 2012, to December 26, 2012. The City received three comment letters and the environmental consultant has prepared responses to the comments for consideration.

The MND does not identify any component of the proposed project that would result in a "potentially significant impact" on the environment per CEQA guidelines. However, the document does identify that project implementation could result in effects that are "less than significant with mitigation incorporated" with regard to the following five (5) environmental categories: Aesthetics, Biological Resources, Cultural Resources, Noise and Public Services. Twelve (12) mitigation measures are identified in the Mitigation Monitoring and Reporting Program, which is attached as Exhibit C of Attachment PC-1.

A traffic study was not required by the Traffic Phasing Ordinance (TPO) due to the limited net increase in average daily trips (ADT). Traffic studies are only required by the TPO when a project results in an increase of 300 average daily trips (ADT) or more. This analytical limit is used by the City as a CEQA threshold and projects that result in a net increase of fewer than 300 ADTs are considered to have a "less than significant impact." In the analysis for the City Hall Reuse Amendments, several likely development scenarios were identified and the most intensive development scenario increased ADTs above the baseline of existing uses of the site by less than 300 trips. In all likely development scenarios considered, AM and PM peak trips decreased. This fact further supports the conclusion that there would be a less than significant traffic impact considering the fact that the City's thresholds of significance for traffic impacts are based solely on increases in peak hour trips.

The MND relies upon the 2006 General Plan Update EIR for most of the analysis, which is the appropriate analytical method since this is a General Plan Amendment (i.e., "programmatic") and not development project level analysis that will be conducted when a future project is identified. At that time, the project would be evaluated based on the specific project parameters (e.g., land use, floor area, number of dwelling units, building height, and other aspects of the physical design). If the evaluation concludes that the

programmatic Initial Study/Mitigated Negative Declaration did not fully address potential impacts of the future development project, additional detailed analysis of that specific project would be required in subsequent environmental documentation.

### Summary

The goal of the proposed amendments is to establish a set of policies and regulations to ensure future development of the site consistent with community expectations. The results of the environmental review process suggest that future development can be accommodated without significant environmental impact to the community. Finally, the amendments are internally consistent and provide an appropriate and flexible regulatory framework for a variety of uses ensuring public input and neighborhood compatibility of a future development project.

### Alternatives

The Commission has the option to recommend changes to the proposed amendments or continue consideration of the proposed amendments to a future date.

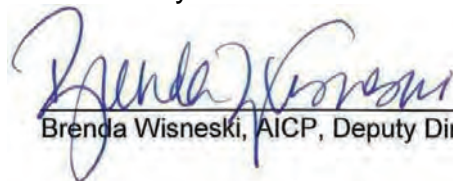
### Public Notice

Notice of this application was published in the Daily Pilot, mailed to all owners of property within 300 feet of the boundaries of the site (excluding intervening rights-of-way and waterways) and posted on the subject property at least 10 days prior to the decision date, consistent with the provisions of the Municipal Code. Additionally, the item appeared on the agenda for this meeting, which was posted at City Hall and on the City website.

Prepared by:

  
James Campbell, Principal Planner

Submitted by:

  
Brenda Wisneski, AICP, Deputy Director

### ATTACHMENTS

PC-1 Draft Resolution recommending adoption of Initial Study/Mitigated Negative Declaration (SCH# 2012111074)

Exhibit A. Legal Description

Exhibit B. Initial Study/Mitigated Negative Declaration including comments and responses to comments

Exhibit C. Mitigation Monitoring and Reporting Program

PC-2 Draft Resolution recommending approval of the proposed amendments

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## ***Attachment PC-1***

Draft Resolution recommending adoption of  
Initial Study/Mitigated Negative Declaration  
(SCH# 2012111074)





**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF  
NEWPORT BEACH RECOMMENDING ADOPTION OF A MITIGATED  
NEGATIVE DECLARATION (SCH#2012111074) FOR THE CITY HALL  
REUSE PROJECT AMENDMENTS AFFECTING A 4.26 ACRE PROPERTY  
AT 3300 NEWPORT BOULEVARD AND 475 32<sup>nd</sup> STREET (PA2012-031)**

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

**SECTION 1. STATEMENT OF FACTS.**

1. On April 24, 2012, the City of Newport Beach initiated amendments of the General Plan, Coastal Land Use Plan, and Zoning Code with respect to a 4.26 acre property located at the northeast corner of the intersection of Newport Boulevard and 32<sup>nd</sup> Street, legally described in Exhibit A. The amendments are generally described as follows:
  - a) General Plan Amendment No. GP2012-002 includes a text and a land use map change to replace the existing Public Facilities (PF) designation for the site with a new mixed-use land use category (MU-H5) and establish density and intensity limits within Table LU-2 of the Land Use Element.
  - b) Coastal Land Use Plan Amendment No. LC2012-001 includes a text and map change to replace the existing Public Facilities (PF) designation for the site with a new mixed-use land use category (MU) and establish density and intensity limits within Table 2.1.1-1. The proposed amendment also includes a change to Policy 4.4.2-1 to establish a policy basis for higher height limits.
  - c) Zoning Code Amendment No. CA2012-003 includes a text and map change to replace the existing Public Facilities (PF) zoning designation for the site with a new zone MU-LV (Mixed-Use-Lido Village) and establish density and intensity limits consistent with the proposed General Plan amendment (Anomaly #80). Development standards and allowed uses would also be established.
2. A public hearing was held on January 17, 2013, in the City Hall Council Chambers, at 3300 Newport Boulevard, Newport Beach, California. A notice of the time, place and purpose of the aforesaid meeting was provided in accordance with CEQA and the Newport Beach Municipal Code ("NBMC"). The draft Initial Study/Mitigated Negative Declaration, Comments and Responses to Comments, Mitigation Monitoring and Reporting Program, staff report, and evidence, both written and oral were presented to and considered by the Planning Commission at the scheduled hearing.

**SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.**

1. Pursuant to the California Environmental Quality Act, Public Resources Code Section 21000, et seq. ("CEQA"), the CEQA Guidelines (14 Cal. Code of Regulations,

Sections 15000 et seq.), and City Council Policy K-3, the proposed amendments ("Project") are defined as a project and as such as subject to environmental review.

2. The City thereafter caused to be prepared an Initial Study/Mitigated Negative Declaration (SCH No. 2012111074) ("MND") in compliance with CEQA, the State CEQA Guidelines and City Council Policy K-3.
3. Notice of the availability of the draft MND was given in accordance with CEQA, the State CEQA Guidelines and City Council Policy K-3. The draft MND was made available for public review for a 30-day comment period beginning on November 26, 2012, and ending December 26, 2012. The City received three comments letters during the public review period and the comments and responses to the comments were considered by the Planning Commission during its consideration of the proposed Project.
4. On the basis of the entire environmental review record, the proposed Project will have a less than significant impact upon the environment with the incorporation of mitigation measures identified in IS/MND and in the Mitigation Monitoring and Reporting Program (MMRP). The mitigation measures are feasible and reduce potential environmental impacts to a less than significant level. The mitigation measures would be applied to future development of the site consistent with the proposed amendments through the MMRP.

### SECTION 3. DECISION.

#### **NOW, THEREFORE, BE IT RESOLVED:**

The Planning Commission of the City of Newport Beach hereby recommends City Council adoption of a Mitigated Negative Declaration and a Mitigation Monitoring and Reporting Program for the City Hall Reuse Project Amendments (SCH#2012111074) attached as Exhibits B and C respectively.

**PASSED, APPROVED AND ADOPTED THIS 17<sup>TH</sup> DAY OF JANUARY, 2013.**

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: \_\_\_\_\_  
Michael Toerge, Chairman

BY: \_\_\_\_\_  
Fred Ameri, Secretary

## **Exhibit A**

### **LEGAL DESCRIPTION:**

THE LAND REFERRED TO HEREIN IS SITUATED IN THE STATE OF CALIFORNIA, COUNTY OF ORANGE, CITY OF NEWPORT BEACH, AND IS DESCRIBED AS FOLLOWS:

#### **PARCEL 1:**

THAT PORTION OF LOTS 3, 6 AND 7 IN SECTION 28, TOWNSHIP 6 SOUTH, RANGE 10 WEST, SAN BERNARDINO MERIDIAN, ACCORDING TO THE OFFICIAL PLAT FILED IN THE DISTRICT LAND OFFICE, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE NORTHERLY LINE OF "THE HUDSON" WITH THE NORTHERLY PROLONGATION OF THE EASTERLY LINE OF LOT 21 IN BLOCK 431 OF "LANCASTER'S ADDITION TO NEWPORT BEACH", AS SHOWN ON A MAP RECORDED IN BOOK 5, PAGE 14 OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY, CALIFORNIA; THENCE NORTH 0°44'30" WEST ALONG SAID NORTHERLY PROLONGATION 400.00 FEET; THENCE WESTERLY PARALLEL WITH SAID NORTHERLY LINE AND LOT 1 IN BLOCK "A" OF SAID LANCASTER'S ADDITION TO NEWPORT BEACH 461.53 FEET TO A POINT IN THE EASTERLY LINE OF SAID CENTRAL AVENUE, AS SHOWN ON TRACT NO. 108, AS SHOWN ON A MAP RECORDED IN BOOK 2, PAGES 1 OF SAID MISCELLANEOUS MAPS; THENCE SOUTHERLY ALONG THE EASTERLY LINE OF SAID CENTRAL AVENUE 401.79 FEET, MORE OR LESS, TO THE NORTHWEST CORNER OF SAID LOT 1; THENCE EASTERLY ALONG THE NORTHERLY OF SAID LOT 1 AND SAID NORTHERLY LINE OF "THE HUDSON" 495.33 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM THE LAND DESCRIBED IN THE DEED ATTACHED TO THAT CERTAIN RESOLUTION NO. 3284 OF THE CITY COUNCIL OF NEWPORT BEACH, A CERTIFIED COPY OF WHICH RECORDED MARCH 11, 1946 IN BOOK 1404, PAGE 130 OF OFFICIAL RECORDS OF ORANGE COUNTY, CALIFORNIA.

ALSO EXCEPTING THEREFROM THE LAND DESCRIBED AS PARCEL 2 IN DEED TO THE GRIFFITH COMPANY RECORDED MARCH 23, 1948 IN BOOK 1741, PAGE 174 OF SAID OFFICIAL RECORDS.

#### **PARCEL 2:**

BEGINNING AT THE SOUTHEAST CORNER OF LOT 2 IN BLOCK "A" OF "LANCASTER'S ADDITION TO NEWPORT BEACH", AS SHOWN ON A MAP RECORDED IN BOOK 5, PAGE 14 OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY, CALIFORNIA; THENCE EASTERLY ALONG THE NORTHERLY LINE OF WASHINGTON AVENUE, NOW KNOWN AS 32<sup>ND</sup> STREET, TO THE INTERSECTION WITH THAT PORTION OF THE BULKHEAD LINE ESTABLISHED BY THE WAR DEPARTMENT IN 1936 AND SHOWN ON THE WAR DEPARTMENT MAP OF NEWPORT BAY SHOWING HARBOR LINE, EXTENDING BETWEEN BULKHEAD STATION NO. 124 AND BULKHEAD STATION NO. 125; THENCE NORTH 27°30'00" WEST ALONG SAID BULKHEAD LINE TO ITS INTERSECTION WITH THE NORTHERLY LINE OF "THE HUDSON" AS SHOWN ON SAID MAP OF LANCASTER'S ADDITION; THENCE WESTERLY ALONG THE NORTHERLY LINE OF SAID "THE HUDSON" TO THE NORTHEAST

CORNER OF LOT 1 OF SAID BLOCK"A"; THENCE SOUTHERLY ALONG THE EASTERLY LINE OF SAID LOTS 1 AND 2 TO THE POINT OF BEGINNING.

PARCEL 3:

THAT PORTION OF LOT 3 OF TRACT NO. 1117, AS SHOWN ON A MAP RECORDED IN BOOK 35, PAGES 48 OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY, CALIFORNIA, TOGETHER WITH THAT PORTION OF THE 20.00 FOOT ALLEY AS VACATED BY RESOLUTION NO. 3280 OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, A CERTIFIED COPY OF WHICH RECORDED MARCH 11, 1946 IN BOOK 1400, PAGE 189 OF OFFICIAL RECORDS OF SAID ORANGE COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEASTERLY CORNER OF SAID LOT 3; THENCE NORTH 0°44'30" WEST ALONG THE EASTERLY LINE OF SAID LOT 3, A DISTANCE OF 90.00 FEET; THENCE NORTH 40°47'07" WEST 170.97 FEET TO A POINT IN THE WESTERLY LINE OF SAID 20.00 FOOT ALLEY; THENCE SOUTH 0°44'30" EAST ALONG THE WESTERLY LINE OF SAID ALLEY 220.89 FEET TO THE SOUTHWESTERLY CORNER OF TRACT NO. 907, AS SHOWN ON A MAP RECORDED IN BOOK 28, PAGES 25 TO 36 INCLUSIVE OF MISCELLANEOUS MAPS, RECORDS OF SAID ORANGE COUNTY; THENCE NORTH 89°15'30" EAST ALONG THE SOUTHERLY LINE OF SAID TRACT NO. 907 AND SAID LOT 3, A DISTANCE OF 110.00 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM THE LAND DESCRIBED AS PARCEL 1 IN DEED TO THE GRIFFITH COMPANY RECORDED MARCH 23, 1948 IN BOOK 1741, PAGE 174 OF OFFICIAL RECORDS OF ORANGE COUNTY, CALIFORNIA.

ALSO EXCEPTING THEREFROM THE LAND DESCRIBED IN DEED TO THE GRIFFITH COMPANY RECORDED JUNE 15, 1953 IN BOOK 2520, PAGE 577 OF OFFICIAL RECORDS OF ORANGE COUNTY, CALIFORNIA.

PARCEL 4:

THAT PORTION OF LOT 3 OF TRACT NO. 1117, AS SHOWN ON A MAP RECORDED IN BOOK 35, PAGE 48 OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY, CALIFORNIA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEASTERLY CORNER OF SAID LOT 3; THENCE NORTH 0°44'30" WEST 74.46 FEET ALONG THE EAST LINE OF SAID LOT TO THE MOST SOUTHERLY CORNER OF THE LAND DESCRIBED AS PARCEL 1 IN DEED TO THE GRIFFITH COMPANY RECORDED MARCH 23, 1948 IN BOOK 1741, PAGE 174 OF OFFICIAL RECORDS OF SAID ORANGE COUNTY, SAID POINT BEING THE TRUE POINT OF BEGINNING; THENCE NORTH 40°47'07" WEST ALONG THE SOUTHWESTERLY LINE OF SAID LAND OF GRIFFITH COMPANY, A DISTANCE OF 69.945 FEET; THENCE NORTH 89°15'30" EAST 45.00 FEET TO THE EAST LINE OF SAID LOT 3; THENCE SOUTH 0°44'30" EAST 53.54 FEET TO THE TRUE POINT OF BEGINNING.

## **EXHIBIT B**

Initial Study/Mitigated Negative Declaration

(Including Comments and Responses to Comments)

City Hall Reuse Project Amendments (SCH#2012111074)

***Separate bound report @ <http://newportbeachca.gov/cityhallreusemnd>***



## **EXHIBIT C**

Mitigation Monitoring and Reporting Program

City Hall Reuse Project Amendments (SCH#2012111074)





**MITIGATION MONITORING AND REPORTING PROGRAM**

**NEWPORT BEACH CITY HALL REUSE PROJECT AMENDMENTS**



## MITIGATION MONITORING AND REPORTING PROGRAM

In accordance with the California Environmental Quality Act (CEQA), the City of Newport Beach prepared a Mitigated Negative Declaration (MND) and Initial Study for the proposed Newport Beach City Hall Reuse Project located in the City of Newport Beach. The MND indicated that the potential adverse environmental impacts of the project, in terms of Aesthetics, Biological Resources, Cultural Resources, Noise, and Public Services (i.e., Fire Protection) could be mitigated to below levels of significance. The mitigation measures have been incorporated into the project and the MND is scheduled for adoption by the City of Newport Beach, in conjunction with the approval of the project. In addition to the mitigation measures, several standard conditions and/or project design features have also been incorporated into the proposed project that avoid or reduce potentially significant impacts. The standard conditions are also listed in the MMRP.

Section 21081.6 of the Public Resources Code (PRC) and CEQA Guidelines section 15097 require the Lead Agency for each project which is subject to the CEQA to monitor performance of the mitigation measures included in any environmental document to ensure that implementation does, in fact, take place. The PRC requires the Lead Agency to adopt a monitoring and reporting program that is designed to ensure compliance during project implementation. In accordance with PRC Section 21081.6 and CEQA Guidelines section 15097, this Mitigation Monitoring and Reporting Program (MMRP) has been developed for the Newport Beach City Hall Reuse project.

## MITIGATION MEASURES

The mitigation measures which are required to reduce or avoid the potentially significant adverse impacts of future development on the project site are listed in **Table 1, Mitigation Monitoring and Reporting Program**. Responsible parties, the time frame for implementation, and the monitoring parties are also identified for each measure. In order to determine if the responsible party has implemented these measures, the method of verification is also identified, along with the City of Newport Beach department or agency responsible for monitoring/verifying that the responsible party has completed each mitigation measure.

**Table 1**

**Mitigation Monitoring and Reporting Program  
Newport Beach City Hall Reuse Project  
Newport Beach, CA**

SC/MM No.	Mitigation Measure	Method of Verification	Timing of Implementation	Responsibility
<b>Aesthetics</b>				
M 4.1-1	<i>Future redevelopment/reuse of the City Hall Complex property shall reflect the architecture, landscape architecture, lighting and all applicable related guidelines established for the subject site by the Lido Village Design Guidelines. Prior to approval of a future project for redevelopment/reuse of the City Hall Complex property, the applicant shall submit development plans that comply with the Lido Village Design Guidelines applicable to the City Hall Complex property.</i>	Plan Check	Prior to Approval of Site Development Plan	Planning Division

SC/MM No.	Mitigation Measure	Method of Verification	Timing of Implementation	Responsibility
MM 4.1-2	<p>Future uses and/or structures proposed for the City Hall Complex property shall comply with all applicable development standards of Section 5.1 (Implementation), the provisions of Part 3 (Site Planning and General Development Standards), and Part 4 (Standards for Specific Land Uses) in the Lido Village Design Guidelines. In addition, future site development shall also comply with other criteria, guidelines, and policies adopted by the City related to the use and development of land.</p> <p>Prior to issuance of a grading permit, a Master Landscape Plan shall be submitted to the Director of Community Development, in conjunction with the Master Site/Development Plan for the City Hall Complex property for review and approval. Landscaping shall complement the proposed site design and surrounding streetscape and must also be consistent with the Lido Village Design Guidelines for the City Hall Complex property. All landscaping shall comply with the landscape plant palette prescribed in the Lido Village Design Guidelines.</p>	Plan Check	Prior to Approval of Site Development Plan	Planning Division
MM 4.1-3	<p>Prior to the issuance of the first building permit for development proposed within the City Hall Complex property, the project Applicant shall submit for approval a lighting plan that shall incorporate a "dark sky" lighting system and its components into the Project design. The lighting plan shall be approved by the City of Newport Beach Community Development Director. The lighting plan shall incorporate electrical plans and structural plans that detail the provision of lighting systems for exteriors of all buildings, parking lots, loading areas, walkways, public use areas, any public art displays, fountains, or landscape areas. Lighting within the development shall be directed and shielded so that light does not spill into adjacent development. Flood lamp shielding and/or sodium bulbs shall be used in developed areas to reduce the amount of stray lighting into off-site. No skyward-casting lighting shall be used. Final lighting orientation and design shall be in accordance with the "dark sky" lighting standards as defined by the Illuminating Engineering Society of North America (IESNA) and shall reduce the impacts of new light sources to the extent feasible as determined by the Community Development Director or his/her designated representative. Prior to final inspection or issuance of a certificate of occupancy, where applicable, the City shall cause to be performed a photometric field survey to verify the proper construction and installation of materials within the approved plan; determine the actual light patterns and values through light meter testing and observation; and determine the extent of any errant lighting. Deviations and/or violations shall be corrected prior to the final occupancy of future development.</p>	Plan Check	Prior to Issuance of Grading Permit	Planning Division
MM 4.1-4	<p>Prior to the issuance of the first building permit for development proposed within the City Hall Complex property, the project Applicant shall submit for approval a lighting plan that shall incorporate a "dark sky" lighting system and its components into the Project design. The lighting plan shall be approved by the City of Newport Beach Community Development Director. The lighting plan shall incorporate electrical plans and structural plans that detail the provision of lighting systems for exteriors of all buildings, parking lots, loading areas, walkways, public use areas, any public art displays, fountains, or landscape areas. Lighting within the development shall be directed and shielded so that light does not spill into adjacent development. Flood lamp shielding and/or sodium bulbs shall be used in developed areas to reduce the amount of stray lighting into off-site. No skyward-casting lighting shall be used. Final lighting orientation and design shall be in accordance with the "dark sky" lighting standards as defined by the Illuminating Engineering Society of North America (IESNA) and shall reduce the impacts of new light sources to the extent feasible as determined by the Community Development Director or his/her designated representative. Prior to final inspection or issuance of a certificate of occupancy, where applicable, the City shall cause to be performed a photometric field survey to verify the proper construction and installation of materials within the approved plan; determine the actual light patterns and values through light meter testing and observation; and determine the extent of any errant lighting. Deviations and/or violations shall be corrected prior to the final occupancy of future development.</p>	Plan Check	Prior to Issuance of First Building Permit	Planning Division
<b>Agriculture and Forest Resources</b>				
No significant impacts will occur and no mitigation measures are required.				

SC/MM No.	Mitigation Measure	Method of Verification	Timing of Implementation	Responsibility
Air Quality				
Biological Resources				
MM 4.4-1	Prior to the approval of future development of the City Hall Complex property, the City shall develop a Tree Management Program that would include the removal, relocation or preservation of all existing trees or landscape materials. The removal or relocation of designated Special Trees shall be subject to Council Policy G-1 and Parks, Beaches, and Recreation Commission or City Council approval.	Plan Check	Prior to Approval of Future Site Development	Planning Division
MM 4.4-2	Every effort should be taken to avoid significantly impacting the two Landmark Trees. Should future development of the site put the Landmark Trees in jeopardy, the trees should be transplanted to an acceptable location on-site provided there are located to minimize future damage to hardscape or underground utility systems. As an alternative, the trees can be relocated to an appropriate off-site location. In the event that the trees do not remain on-site, the City should consider planting two replacement specimen trees of any variety on-site that would be eligible to be designated as Landmark Trees.	Plan Check/On-Site Monitoring	Prior to Issuance of Grading Permit/During Site Preparation and Grading	Planning Division
MM 4.4-3	The City should locate an existing <u>Ficus benjamina</u> tree in a City park and dedicate the tree in the name of William Lawrence "Billy" Covert. Should an appropriate tree not be found, the City will attempt to transplant the existing tree or plant a new tree of the same variety at an appropriate location. The re-dedicated tree should have a permanent marker or plaque. Every effort should be made to involve the Covert family in this process.	Plan Check	Prior to Issuance of Building Permit	Planning Division
MM 4.4-4	Because the Walter Knott Tree and the California Bicentennial Tree cannot be effectively transplanted, the City should locate an existing tree within a City park and dedicate it in the name of Walter and Cordelia Knott. The City should also locate an existing tree in a prominent location within a City park or at the new Civic Center and dedicate it in honor of the State of California. The re-dedicated trees will have permanent markers and every effort should be made to involve the Knott family and the community in the process.	Plan Check	Prior to Issuance of Building Permit	Planning Division
MM 4.4-5	Because the Freedom Tree also cannot be effectively transplanted, the City should locate an existing tree in a very prominent location within a City park or at the new Civic Center and dedicate it as The Freedom Tree. An appropriate permanent marker or plaque will be provided and the dedication should be accomplished with community and veterans groups' participation.	Plan Check	Prior to Issuance of Building Permit	Planning Division
MM 4.4-6	All other trees or other landscaping should be incorporated on-site within new development to the extent practical. If existing trees or landscaping are not being utilized in new designs, the City should salvage and transplant whatever it deems appropriate and then	Plan Check	Prior to Issuance of Grading Permit	Planning Division

SC/MM No.	Mitigation Measure	Method of Verification	Timing of Implementation	Responsibility
	consider offering remaining salvageable landscaping to the public at auction provided the cost of landscape salvage is the responsibility of the successful bidders.			
<b>Cultural Resources</b>				
SC 4.5-1	A qualified archaeological/paleontological monitor shall be retained by the project applicant who will be available during the grading and landform alteration phase. In the event cultural resources and/or fossils are encountered during construction activities, ground-disturbing excavations in the vicinity of the discovery shall be redirected or halted by the monitor until the find has been salvaged. Any artifacts and/or fossils discovered during project construction shall be prepared to a point of identification and stabilized for long-term storage. Any discovery, along with supporting documentation and an itemized catalogue, shall be accessioned into the collections of a suitable repository. Curation costs to accession any collections shall be the responsibility of the project applicant.	Proof of Qualified Archaeological/Paleontological Monitor	Prior to Issuance of Grading Permit	Planning Division
MM 4.5-1	The City shall provide an opportunity for a Native American representative to monitor excavation activities. The representative shall be determined by the City based on input from concerned Native American tribes (i.e., Gabrielino, Juaneño, and Tongva).	On-Site Monitoring	During Site Preparation and Grading	Planning Division
<b>Geology and Soils</b>				
No significant impacts will occur and no mitigation measures are required.				
<b>Greenhouse Gas Emissions</b>				
No significant impacts will occur and no mitigation measures are required.				
<b>Hazards and Hazardous Materials</b>				
SC 4.8-1	The City of Newport Beach will require all plans for proposed future development within the project area to comply with all applicable Federal, State, and local regulations pertaining to the transport, storage, use and/or disposal of hazardous materials on the site.	Plan Check	Prior to Issuance of Grading Permit	Building Division
SC 4.8-2	Prior to issuance of a demolition permit, a sampling and analytical testing program shall be undertaken by a certified asbestos consultant (CAC) and certified LBP inspector (unless those materials are handled as ACM and/or LBP). If ACM and/or LBP is detected, the materials shall be removed by a licensed asbestos or LBP contractor prior to any building demolition or renovation that would disturb the identified ACM or LBP.	Testing	Prior to Issuance of Demolition Permit	Building Division

SC/MM No.	Mitigation Measure	Method of Verification	Timing of Implementation	Responsibility
<b>Hydrology and Water Quality</b>				
SC 4.9-1	Prior to issuance of a grading permit, the project applicant for future redevelopment/reuse of the City Hall Complex property shall be required to submit a notice of intent (NOI) with the appropriate fees to the State Water Quality Resources Control Board for coverage of such future projects under the General Construction Activity Storm Water Runoff Permit prior to initiation of construction activity at a future site. As required by the NPDES permit, a Storm Water Pollution and Prevention Plan (SWPPP) will be prepared and will establish BMPs in order to reduce sedimentation and erosion.	Submit evidence of NOI filing	Prior to issuance of grading permit	Building Division and Public Works Department
SC 4.9-2	Prior to approval of redevelopment/reuse project on the City Hall Complex property by the City Council, the project applicant shall prepare a Preliminary Water Quality Management Plan (WQMP) for the project and submit the Final WQMP to the City of Newport Beach for approval with the project improvement plans. The WQMP shall specifically identify Best Management Practices (BMPs) that will be used to control predictable pollutant runoff, including flow/volume-based measures to treat the "first flush." The WQMP shall identify at a minimum the routine structural and non-structural measures specified in the Countywide NPDES Drainage Area Master Plan (DAMP), which details implementation of the BMPs whenever they are applicable to a project, the assignment of long-term maintenance responsibilities, and shall reference the locations of structural BMPs.	Approval of WQMP	Prior to issuance of grading permit	Building Division and Public Works Department
SC 4.9-3	Prior to issuance of a grading permit for future redevelopment/reuse of the City Hall Complex property, the project applicant shall prepare a Storm Water Pollution and Prevention Plan (SWPPP). The SWPPP will establish BMPs in order to reduce sedimentation and erosion and prevent construction pollutants from leaving the site. The project shall also incorporate all monitoring elements as required in the General Construction Permit. The project applicant shall also develop an erosion and sediment control plan to be reviewed and approved by the City of Newport Beach prior to issuance of grading permit.	Submit SWPPP Approval of erosion and sediment control plan	Prior to issuance of grading permit	Building Division and Public Works Department
SC 4.9-4	Future site grading and construction shall comply with the drainage controls imposed by the applicable building code requirements prescribed by the City of Newport Beach.	Submit evidence of compliance and site inspection	During grading and construction activities	Building Division and Public Works Department
<b>Land Use and Planning</b>				
No significant impacts will occur and no mitigation measures are required.				
<b>Mineral Resources</b>				
No significant impacts will occur and no mitigation measures are required.				

SC/MM No.	Mitigation Measure	Method of Verification	Timing of Implementation	Responsibility
<b>Noise</b>				
SC 4.12-1	To ensure compliance with Newport Beach Municipal Code Section 10.28.040, grading and construction plans for future redevelopment/reuse of the City Hall Complex property shall include a note indicating that loud noise-generating Project construction activities (as defined in Section 10.28.040 of the Newport Beach Noise Ordinance) shall take place between the hours of 7:00 a.m. and 6:30 p.m. on weekdays and from 8:00 a.m. to 6:00 p.m. on Saturdays. Loud, noise-generating construction activities are prohibited on Sundays and federal holidays.	Plan Check	Prior to Issuance of Grading Permit	Public Works Department
SC 4.12-2	HVAC units shall be designed and installed in accordance with Section 10.26.045 of the Newport Beach Noise Ordinance, which specifies the maximum noise levels for new HVAC installations and associated conditions.	Plan Check	Prior to Issuance of Building Permit	Public Works Department
SC 4.12-3	All residential and hotel units shall be designed to ensure that interior noise levels in habitable rooms from exterior transportation sources (including aircraft and vehicles on adjacent roadways) shall not exceed 45 dBA CNEL. This condition complies with the applicable sections of the California Building Code (Title 24 of the <i>California Code of Regulations</i> ) and, for multiple-family residences, exceeds the requirements of Section 10.26.025 of the Noise Ordinance. Prior to issuance of a building permit, the Developer/Applicant of future redevelopment/reuse of the City Hall Complex property shall submit to the City of Newport Beach Community Development Department, Building Division Manager or his/her designee for review and approval architectural plans and an accompanying noise study that demonstrates that interior noise levels in the habitable rooms of residential and hotel units due to exterior transportation noise sources would be 45 dBA CNEL or less. Where closed windows are required to achieve the 45 dBA CNEL limit, Project plans and specifications shall include ventilation as required by the California Building Code.	Plan Check	Prior to Issuance of Building Permit	Public Works Department
SC 4.12-4	In accordance with City of Newport Beach standards, rubberized asphalt, or pavements offering equivalent or better acoustical properties shall be used to pave all public arterials on the Project site and all off-site City of Newport Beach roads where improvements would be provided or required as a part of the Project.	Plan Check	Prior to Issuance of Building Permit	Public Works Department
MM 4.12-1	Prior to issuance of future demolition or permits, the Director of the City of Newport Beach Community Development Department, or designee, shall verify that the following notes appear on demolition, grading and construction plans:  1. During all project site demolition, excavation and grading, the project contractors shall equip all construction equipment, fixed or mobile, with properly operating and maintained mufflers consistent with manufacturers' standards.	Plan Check	Prior to Issuance of Demolition Permit	Planning Division

SC/MM No.	Mitigation Measure	Method of Verification	Timing of Implementation	Responsibility
	<p>2. The project contractor shall place all stationary construction equipment so that emitted noise is directed away from sensitive receptors nearest the project site.</p> <p>The construction contractor shall locate equipment staging in areas that will create the greatest distance between construction related noise sources and noise-sensitive receptors nearest the project site during all project construction.</p>			
<b>Population and Housing</b>				
No significant impacts will occur and no mitigation measures are required.				
<b>Fire Protection</b>				
SC 4.14-1	Future redevelopment/reuse proposed for the City Hall Complex shall be designed in accordance with all applicable design parameters of the California Fire Code, California Building Code and local City amendments.	Plan Check	Prior to Issuance of Building Permit	Fire Department
MM4.14-1	Prior to City approval of redevelopment/reuse plans for the City Hall Complex, the Applicant shall obtain Fire Department review and approval of the site plan in order to ensure adequate access is provided to the Project site and that the site plan has been designed to accommodate emergency vehicles.	Plan Check	Prior to Approval of Redevelopment/Reuse Plan	Fire Department
<b>Police Protection</b>				
SC 4.14-2	Prior to issuance of building permit for future development of the City Hall Complex, the City of Newport Beach Police Department shall review development plans for the incorporation of defensible space concepts to reduce demands on police services. Public safety planning recommendations shall be incorporated into the Project plans as determined necessary. The Applicant shall prepare a list of Project features and design components that demonstrate responsiveness to defensible space design concepts. The Police Department shall review and approve all defensible space design features incorporated into the Project prior to initiating the building plan check process.	Plan Check	Prior to Issuance of Building Permit	Police Department
SC 4.14-3	Prior to the issuance of the demolition permit and/or action that would permit Project site disturbance, the Applicant shall provide evidence to the City of Newport Beach Police Department that a construction security service or equivalent service shall be established at the construction site along with other measures, as identified by the Police Department and the Public Works Department, to be instituted during the grading and construction phase of the project.	Agreement	Prior to Issuance of Demolition Permit and/or Action that would permit Site Disturbance	Police Department



SC/MM No.	Mitigation Measure	Method of Verification	Timing of Implementation	Responsibility
<b>Schools</b>				
SC 4.14-4	Prior to building permit issuance for future redevelopment/reuse of the City Hall Complex property, the applicant for such development shall pay the applicable statutory developer fees for residential and non-residential land uses in effect at the time of the building permit.	Payment of Fees	Prior to Issuance of Building Permit	Planning Division
<b>Recreation</b>				
No significant impacts will occur and no mitigation measures are required.				
<b>Transportation/Traffic</b>				
No significant impacts will occur and no mitigation measures are required.				
<b>Utilities and Service Systems</b>				
No significant impacts will occur and no mitigation measures are required.				



## ***Attachment PC-2***

Draft Resolution recommending approval  
of the proposed amendments



**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH RECOMMENDING APPROVAL OF GENERAL PLAN AMENDMENT NO. GP2012-002, COASTAL LAND USE PLAN AMENDMENT NO. LC2012-001, AND ZONING CODE AMENDMENT NO. CA2012-003 FOR THE CITY HALL REUSE PROJECT AFFECTING A 4.26 ACRE PROPERTY AT 3300 NEWPORT BOULEVARD AND 475 32nd STREET (PA2012-031)**

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

**SECTION 1. STATEMENT OF FACTS.**

1. On April 24, 2012, the City of Newport Beach initiated amendments of the General Plan, Coastal Land Use Plan, and Zoning Code with respect to a 4.26 acre property located at the northeast corner of the intersection of Newport Boulevard and 32<sup>nd</sup> Street, legally described in Exhibit A. The amendments are generally described as follows:
  - a) General Plan Amendment No. GP2012-002 includes a text and a land use map change to replace the existing Public Facilities (PF) designation for the site with a new mixed-use land use category (MU-H5) and establish density and intensity limits within Table LU-2 of the Land Use Element.
  - b) Coastal Land Use Plan Amendment No. LC2012-001 includes a text and map change to replace the existing Public Facilities (PF) designation for the site with a new mixed-use land use category (MU) and establish density and intensity limits within Table 2.1.1-1. The proposed amendment also includes a change to Policy 4.4.2-1 to establish a policy basis for higher height limits.
  - c) Zoning Code Amendment No. CA2012-003 includes a text and map change to replace the existing Public Facilities (PF) zoning designation for the site with a new zone MU-LV (Mixed-Use-Lido Village) and establish density and intensity limits consistent with the proposed General Plan amendment (Anomaly #80). Development standards and allowed uses would also be established.
2. A public hearing was held on January 17, 2013, in the City Hall Council Chambers, at 3300 Newport Boulevard, Newport Beach, California. A notice of the time, place and purpose of the aforesaid meeting was provided in accordance with CEQA and the Newport Beach Municipal Code ("NBMC"). The draft Initial Study/Mitigated Negative Declaration, Comments and Responses to Comments, Mitigation Monitoring and Reporting Program, staff report, and evidence, both written and oral were presented to and considered by the Planning Commission at the scheduled hearing.

## SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

An Initial Study/Mitigated Negative Declaration (MND) has been prepared in accordance with the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and City Council Policy K-3. The Planning Commission found that the analysis prepared is appropriate and recommends its adoption. The Planning Commission's findings and recommendation are provided in Planning Commission Resolution No. \_\_\_\_ incorporated herein by reference.

## SECTION 3. FINDINGS

1. The site is located in an urban mixed-use area in proximity to commercial services, recreational uses, and transit opportunities. The proposed General Plan Amendment provides for variety of land uses for the site that will allow the City to consider various alternative uses to ensure neighborhood compatibility.
2. Pursuant to Charter Section 423 and Council Policy A-18, proposed General Plan amendments are reviewed to determine if a vote of the electorate would be required if a project (separately or cumulatively with other projects in the same Statistical Area over the prior 10 years) exceeds certain thresholds. This is the third General Plan Amendment that affects Statistical Area B5 since the General Plan update in 2006. The amendment would result in a 99 units being added to the Statistical Area and when this is added to 80% of the increase in units of the two prior amendments, the total does not exceed 100 units. The amendment would result in a net increase of 24,675 square feet and when this is added to 80% of the increase in floor area of the two prior amendments, the total does not exceed 40,000 square feet. The amendment is projected to decrease AM and PM traffic trips. As none of the thresholds specified by Charter Section 423 are exceeded, no vote of the electorate is required.
3. The proposed amendments do not conflict with policies of the Coastal Land Use Plan and Coastal Act. Specifically, the project is consistent with Section 30213 and 30222 providing opportunities for visitors and recreational facilities by accommodating future development of the site with a hotel and through the reservation of at least 20% of the site for public open space planned to be developed with urban public plazas and promenades allowing public access and low-cost recreational activities. The intended purpose of the public plazas and promenades is to facilitate public access connecting various nearby visitor-serving commercial areas with the beach and bay as described in the Lido Village Design Guidelines in furtherance of Chapter 3 of the Coastal Act that seeks to enhance public access within the coastal zone.
4. The proposed CLUP Amendment provides protection of important coastal views and future development consistent with the proposed amendments would not significantly impact protected coastal views due to the location of the site. Future development consistent with the proposed amendments will result in taller buildings that would not be incompatible with the area due to the presence of several other tall developments in the area namely a 5-story building located at 3388 Via Lido, a 3-story building located at 3366 Via Lido, several 3-story buildings located in Lido Marina Village, and

two multi-story high rise residential towers located nearby at 601 and 611 Lafayette Avenue.

5. The proposed zoning Code Amendment provides appropriate use and development standards while ensuring compatibility of future development proposals through a future public hearing process.
6. The Local Coastal Program and its amendments shall be carried out fully in conformity with the Coastal Act and the City's Certified Coastal Land Use Plan.
7. City of Newport Beach approval of Local Coastal Land Use Plan Amendments (Amendment) shall become effective immediately upon the effective date of the California Coastal Commission (CCC) certification of the Amendment provided it is approved without suggested modifications. Should the CCC approve an Amendment with suggested modifications, City approval of the Amendment shall require a separate action by the City Council following Coastal Commission approval. In this case, the Amendment would become effective upon the effective date of the CCC certification of the modified Amendment.

#### SECTION 4. DECISION.

#### **NOW, THEREFORE, BE IT RESOLVED:**

The Planning Commission of the City of Newport Beach hereby recommends City Council approval of the following applications:

1. General Plan Amendment No. GP2012-002 as provided in Exhibit B;
2. Coastal Land Use Plan Amendment No. LC2012-001 as provided in Exhibit C; and
3. Zoning Code Amendment No. CA2012-003 as provided in Exhibit D.

**PASSED, APPROVED AND ADOPTED THIS 17<sup>TH</sup> DAY OF JANUARY, 2013.**

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: \_\_\_\_\_  
Michael Toerge, Chairman

BY: \_\_\_\_\_  
Fred Ameri, Secretary

## EXHIBIT A

**City Hall Reuse Project Amendments  
GP2012-002, LC2012-001, and CA2012-003 (PA2012-031)  
3300 Newport Boulevard & 475 32<sup>nd</sup> Street**

### LEGAL DESCRIPTION:

THE LAND REFERRED TO HEREIN IS SITUATED IN THE STATE OF CALIFORNIA, COUNTY OF ORANGE, CITY OF NEWPORT BEACH, AND IS DESCRIBED AS FOLLOWS:

#### PARCEL 1:

THAT PORTION OF LOTS 3, 6 AND 7 IN SECTION 28, TOWNSHIP 6 SOUTH, RANGE 10 WEST, SAN BERNARDINO MERIDIAN, ACCORDING TO THE OFFICIAL PLAT FILED IN THE DISTRICT LAND OFFICE, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE NORTHERLY LINE OF "THE HUDSON" WITH THE NORTHERLY PROLONGATION OF THE EASTERLY LINE OF LOT 21 IN BLOCK 431 OF "LANCASTER'S ADDITION TO NEWPORT BEACH", AS SHOWN ON A MAP RECORDED IN BOOK 5, PAGE 14 OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY, CALIFORNIA; THENCE NORTH 0°44'30" WEST ALONG SAID NORTHERLY PROLONGATION 400.00 FEET; THENCE WESTERLY PARALLEL WITH SAID NORTHERLY LINE AND LOT 1 IN BLOCK "A" OF SAID LANCASTER'S ADDITION TO NEWPORT BEACH 461.53 FEET TO A POINT IN THE EASTERLY LINE OF SAID CENTRAL AVENUE, AS SHOWN ON TRACT NO. 108, AS SHOWN ON A MAP RECORDED IN BOOK 2, PAGES 1 OF SAID MISCELLANEOUS MAPS; THENCE SOUTHERLY ALONG THE EASTERLY LINE OF SAID CENTRAL AVENUE 401.79 FEET, MORE OR LESS, TO THE NORTHWEST CORNER OF SAID LOT 1; THENCE EASTERLY ALONG THE NORTHERLY OF SAID LOT 1 AND SAID NORTHERLY LINE OF "THE HUDSON" 495.33 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM THE LAND DESCRIBED IN THE DEED ATTACHED TO THAT CERTAIN RESOLUTION NO. 3284 OF THE CITY COUNCIL OF NEWPORT BEACH, A CERTIFIED COPY OF WHICH RECORDED MARCH 11, 1946 IN BOOK 1404, PAGE 130 OF OFFICIAL RECORDS OF ORANGE COUNTY, CALIFORNIA.

ALSO EXCEPTING THEREFROM THE LAND DESCRIBED AS PARCEL 2 IN DEED TO THE GRIFFITH COMPANY RECORDED MARCH 23, 1948 IN BOOK 1741, PAGE 174 OF SAID OFFICIAL RECORDS.

#### PARCEL 2:

BEGINNING AT THE SOUTHEAST CORNER OF LOT 2 IN BLOCK "A" OF "LANCASTER'S ADDITION TO NEWPORT BEACH", AS SHOWN ON A MAP RECORDED IN BOOK 5, PAGE 14 OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY, CALIFORNIA; THENCE EASTERLY ALONG THE NORTHERLY LINE OF WASHINGTON AVENUE, NOW KNOWN AS 32<sup>ND</sup> STREET, TO THE INTERSECTION WITH THAT PORTION OF THE BULKHEAD LINE ESTABLISHED BY THE WAR DEPARTMENT IN 1936 AND SHOWN ON THE WAR DEPARTMENT MAP OF NEWPORT BAY SHOWING HARBOR LINE, EXTENDING BETWEEN BULKHEAD STATION NO. 124 AND BULKHEAD STATION NO. 125; THENCE NORTH 27°30'00" WEST ALONG SAID BULKHEAD LINE TO ITS INTERSECTION WITH THE NORTHERLY LINE OF "THE HUDSON" AS



SHOWN ON SAID MAP OF LANCASTER'S ADDITION; THENCE WESTERLY ALONG THE NORTHERLY LINE OF SAID "THE HUDSON" TO THE NORTHEAST CORNER OF LOT 1 OF SAID BLOCK "A"; THENCE SOUTHERLY ALONG THE EASTERLY LINE OF SAID LOTS 1 AND 2 TO THE POINT OF BEGINNING.

PARCEL 3:

THAT PORTION OF LOT 3 OF TRACT NO. 1117, AS SHOWN ON A MAP RECORDED IN BOOK 35, PAGES 48 OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY, CALIFORNIA, TOGETHER WITH THAT PORTION OF THE 20.00 FOOT ALLEY AS VACATED BY RESOLUTION NO. 3280 OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, A CERTIFIED COPY OF WHICH RECORDED MARCH 11, 1946 IN BOOK 1400, PAGE 189 OF OFFICIAL RECORDS OF SAID ORANGE COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEASTERLY CORNER OF SAID LOT 3; THENCE NORTH 0°44'30" WEST ALONG THE EASTERLY LINE OF SAID LOT 3, A DISTANCE OF 90.00 FEET; THENCE NORTH 40°47'07" WEST 170.97 FEET TO A POINT IN THE WESTERLY LINE OF SAID 20.00 FOOT ALLEY; THENCE SOUTH 0°44'30" EAST ALONG THE WESTERLY LINE OF SAID ALLEY 220.89 FEET TO THE SOUTHWESTERLY CORNER OF TRACT NO. 907, AS SHOWN ON A MAP RECORDED IN BOOK 28, PAGES 25 TO 36 INCLUSIVE OF MISCELLANEOUS MAPS, RECORDS OF SAID ORANGE COUNTY; THENCE NORTH 89°15'30" EAST ALONG THE SOUTHERLY LINE OF SAID TRACT NO. 907 AND SAID LOT 3, A DISTANCE OF 110.00 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM THE LAND DESCRIBED AS PARCEL 1 IN DEED TO THE GRIFFITH COMPANY RECORDED MARCH 23, 1948 IN BOOK 1741, PAGE 174 OF OFFICIAL RECORDS OF ORANGE COUNTY, CALIFORNIA.

ALSO EXCEPTING THEREFROM THE LAND DESCRIBED IN DEED TO THE GRIFFITH COMPANY RECORDED JUNE 15, 1953 IN BOOK 2520, PAGE 577 OF OFFICIAL RECORDS OF ORANGE COUNTY, CALIFORNIA.

PARCEL 4:

THAT PORTION OF LOT 3 OF TRACT NO. 1117, AS SHOWN ON A MAP RECORDED IN BOOK 35, PAGE 48 OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY, CALIFORNIA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEASTERLY CORNER OF SAID LOT 3; THENCE NORTH 0°44'30" WEST 74.46 FEET ALONG THE EAST LINE OF SAID LOT TO THE MOST SOUTHERLY CORNER OF THE LAND DESCRIBED AS PARCEL 1 IN DEED TO THE GRIFFITH COMPANY RECORDED MARCH 23, 1948 IN BOOK 1741, PAGE 174 OF OFFICIAL RECORDS OF SAID ORANGE COUNTY, SAID POINT BEING THE TRUE POINT OF BEGINNING; THENCE NORTH 40°47'07" WEST ALONG THE SOUTHWESTERLY LINE OF SAID LAND OF GRIFFITH COMPANY, A DISTANCE OF 69.945 FEET; THENCE NORTH 89°15'30" EAST 45.00 FEET TO THE EAST LINE OF SAID LOT 3; THENCE SOUTH 0°44'30" EAST 53.54 FEET TO THE TRUE POINT OF BEGINNING.

## EXHIBIT B

City Hall Reuse Project Amendments  
GP2012-002 (PA2012-031)  
3300 Newport Boulevard & 475 32<sup>nd</sup> Street

**A. Amend Table LU1 of the Land Use Element of the General Plan to add the following land use category:**

**“Mixed Use Horizontal 5 (MU-H5)**

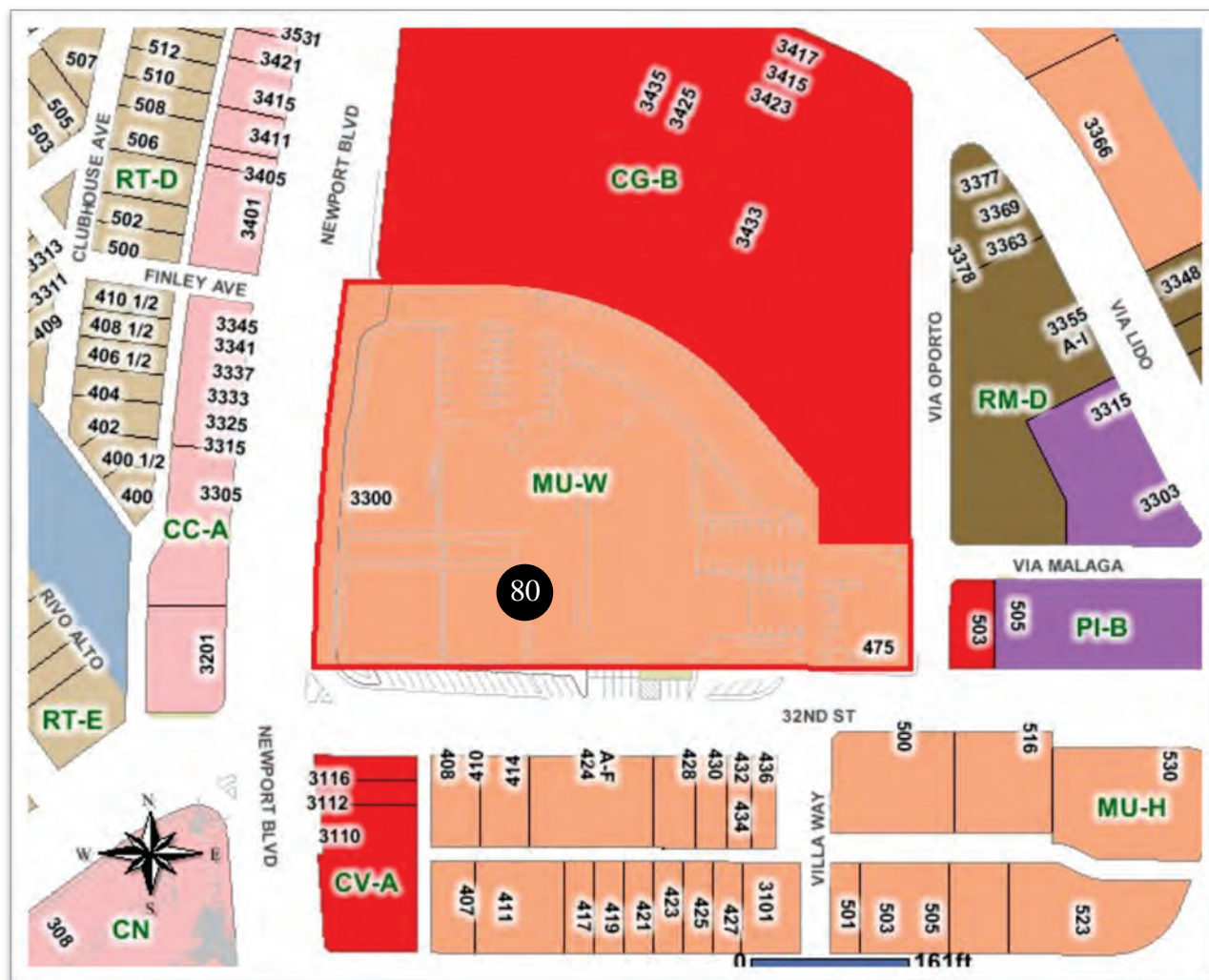
The MU-H5 designation applies to the former City Hall complex located at the northeast corner of the intersection of Newport Boulevard and 32<sup>nd</sup> Street. The MU-H5 designation provides for the horizontal or vertical intermixing of commercial, visitor accommodations, residential, and/or civic uses. Civic uses may include, but are not limited to, a community center, public plazas, a fire station and/or public parking.”

**B. Amend Table LU-2 to add Anomaly Location #80 as shown in the following table:**

Table LU2    Anomaly Locations					
<u>Anomaly Number</u>	<u>Statistical Area</u>	<u>Land Use Designation</u>	<u>Development Limit (sf)</u>	<u>Development Limit (Other)</u>	<u>Additional Information</u>
80	B5	MU-H5	99 dwelling units and 15,000 sf commercial  Or  99,625 sf of hotel	Any combination of dwelling units and hotel rooms provided it does not exceed 99 dwelling units or 99,675 sf of hotel use.	Accessory commercial floor area is allowed in conjunction with a hotel and it is included within the hotel development limit. Municipal facilities are not restricted or included in any development limit.

All existing provisions within Table LU-2 remain unchanged

**C. Amend Figure LU6 (Land Use Map) as it relates to 3300 Newport Boulevard & 475 32nd Street only as depicted in the following diagram:**



All related maps or diagrams within the General Plan shall be amended to maintain consistency with the new land use category and Anomaly Location #80 as shown above. Additionally, any maps or diagrams within the General Plan that label the site as “City Hall” shall be removed from the General Plan upon relocation of City Hall operations from the site to the new City Hall site located at 100 Civic Center Drive. Labeling the new City Hall site as “City Hall” on any General Plan map or diagram is also authorized.

## EXHIBIT C

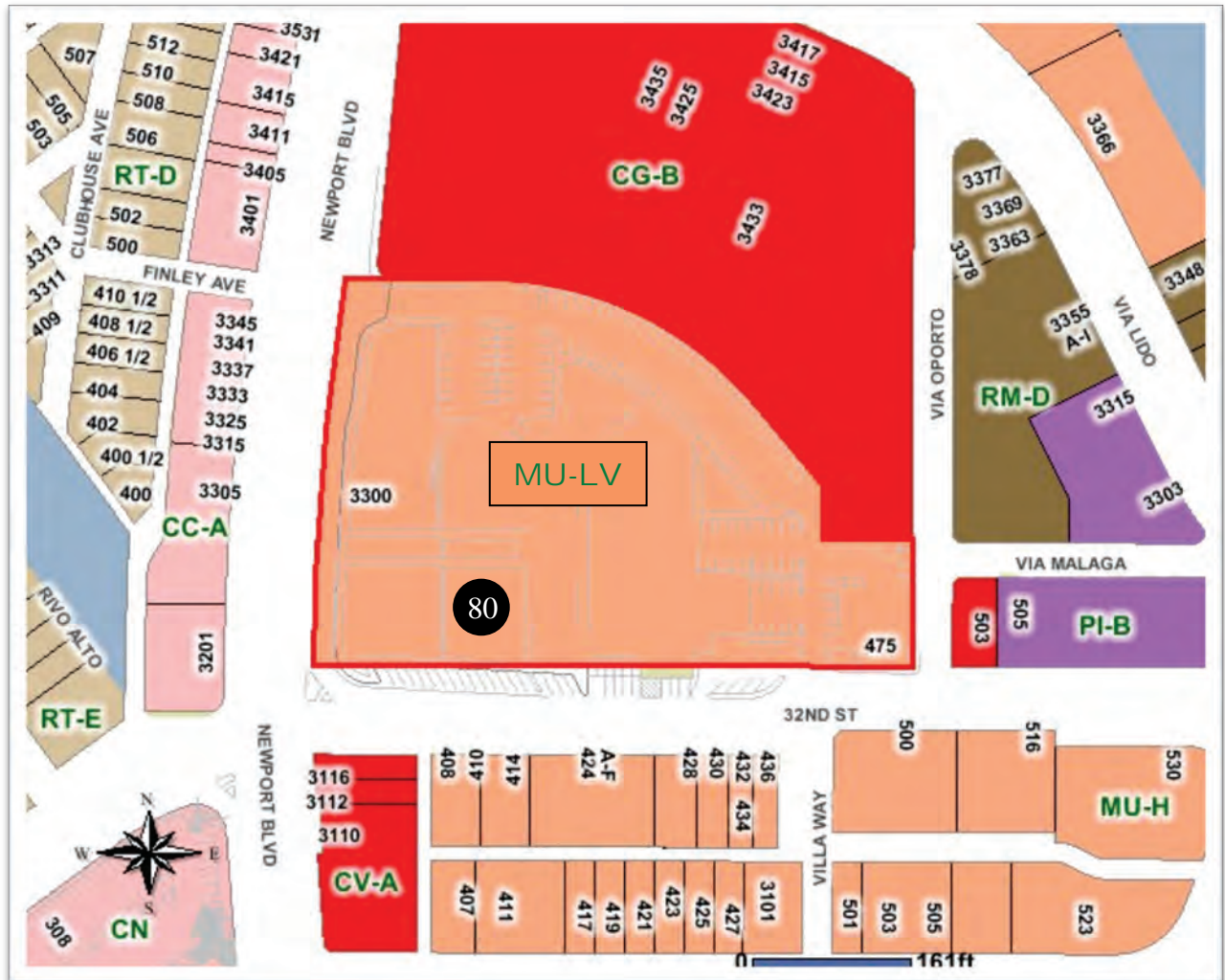
City Hall Reuse Project Amendments  
 LC2012-001 (PA2012-031)  
 3300 Newport Boulevard & 475 32<sup>nd</sup> Street

A. Amend the Table 2.1.1-1 of the Coastal Land Use Plan add the following land use category:

Table 2.1.1-1 Land Use Plan Categories		
Land Use Category	Uses	Density/Intensity
<u>Mixed Use — MU</u>	<u>The MU category is intended to provide for the development a mix of uses, which may include general, neighborhood or visitor-serving commercial, commercial offices, visitor accommodations, multi-family residential, mixed-use development, and/or civic uses.</u>	<u>99 dwelling units and 15,000 sf commercial</u> <u>Or</u> <u>99,625 sf of hotel</u> <u>Or</u> <u>Any combination of dwelling units and hotel rooms provided it does not exceed 99 dwelling units or 99,675 sf of hotel use. Municipal facilities are not restricted or included in any development limit.</u>

All existing provisions within Table 2.1.1-1 remain unchanged.

B. Amend Coastal Land Use Plan Map 1, Figure 2.1.5-1, as it relates to 3300 Newport Boulevard & 475 32nd Street only as depicted in the following diagram:



All related maps or diagrams within the Coastal Land Use Plan shall be amended to maintain consistency with the new land use category as shown above. Additionally, any maps or diagrams within the Coastal Land Use Plan that label the site as “City Hall” shall be removed from the General Plan upon relocation of City Hall operations from the site to the new City Hall site located at 100 Civic Center Drive. Labeling the new City Hall site as “City Hall” on any Coastal Land Use Plan map or diagram is also authorized.

**C. Amend Policy 4.4.2-1 as follows with deleted language in ~~strikeout~~ and new language underlined<sup>1</sup>:**

**4.4.2-1.** Maintain the 35-foot height limitation in the Shoreline Height Limitation Zone, as graphically depicted on Map 4-3, except for the following ~~sites~~sites.

A. Marina Park located at 1600 West Balboa Boulevard: A single, up to 73-foot tall architectural tower that does not include floor area but could house screened communications or emergency equipment. The additional height would create an iconic landmark for the public to identify the site from land and water and a visual focal point to enhance public views from surrounding vantages.

B. Mixed Use (MU) area located at 3300 Newport Boulevard (former City Hall Complex): Buildings and structures up to 55 feet in height, provided it is demonstrated that development does not negatively impact public views. Peaks of sloping roofs and elevator towers may exceed 55 feet by up to 5 feet and architectural features such as domes, towers, cupolas, spires, and similar structures may exceed 55 feet by 10 feet. The purpose of allowing buildings, structures and architectural elements to exceed 35 feet is to promote vertical clustering resulting in increased publically accessible on-site open space and architectural diversity while protecting existing coastal views and providing new coastal view opportunities.

<sup>1</sup> Note that the policy language related to Marina Park has been adopted by the City Council but has not been approved by the California Coastal Commission as of the date of this exhibit.

## EXHIBIT D

City Hall Reuse Project Amendment  
CA2012-003 (PA2012-031)  
3300 Newport Boulevard & 475 32<sup>nd</sup> Street

**A. Amend Section 20.14.020 (Zoning Districts Established) to establish the “MU-LV” within Table 1-1 as follows:**

Mixed-Use Zoning Districts			
MU-V	Mixed-Use Vertical	MU-V	Mixed-Use Vertical
MU-MM MU-DW MU-CV/15th Street MU-LV	Mixed-Use	MU-H	Mixed-Use
MU-W1 MU-W2	Mixed-Use Water	MU-W	Mixed-Use Water-Related

All existing provisions of Section 20.14.020 and Table 1-1 remain unchanged.

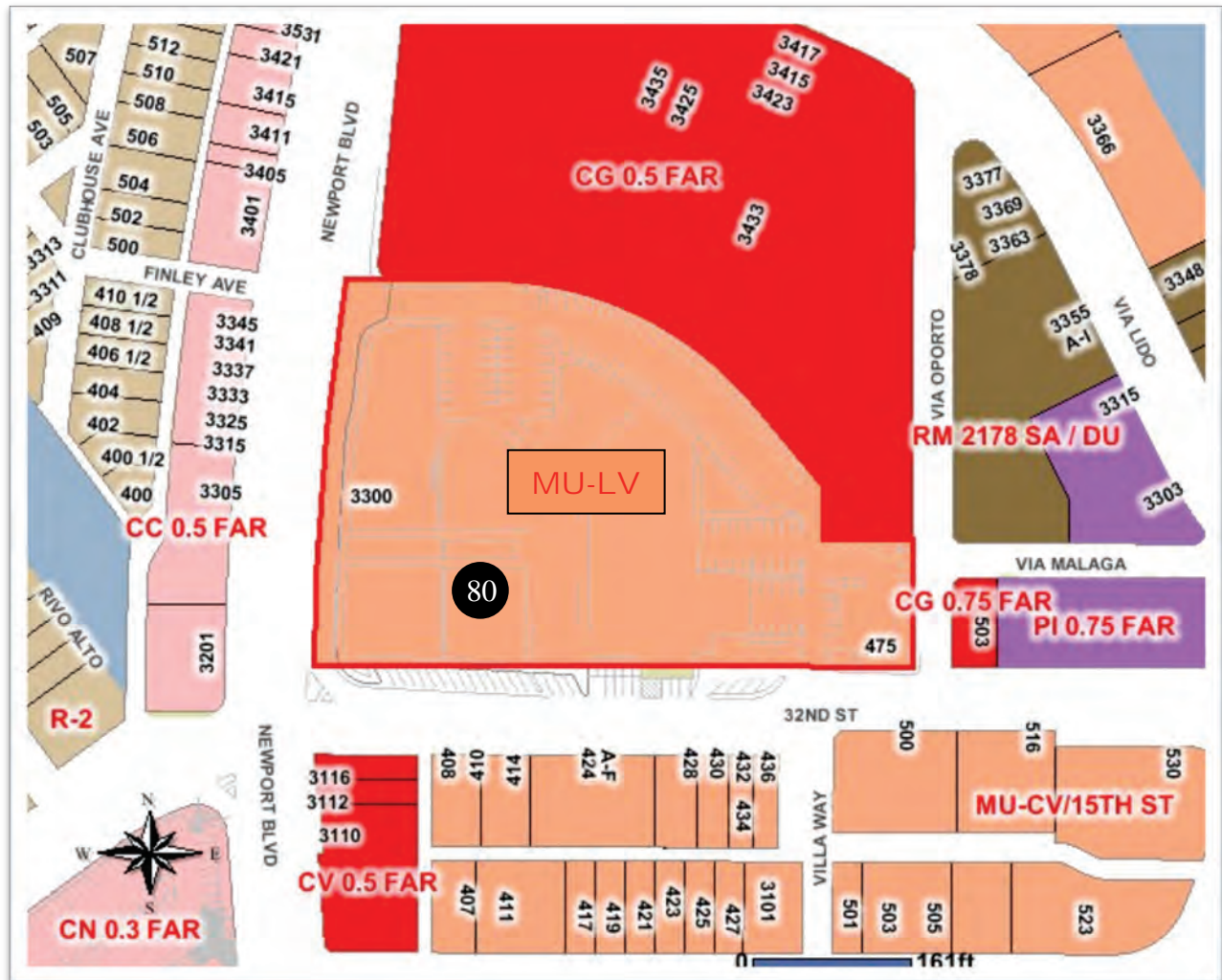
**B. Amend Section 20.22.010 (Purposes of Mixed-Use Zoning Districts) to add the following subsection:**

“G. The MU-LV (Mixed-Use-Lido Village) zoning district. This district applies to the former City Hall complex located at the northeast corner of the intersection of Newport Boulevard and 32nd Street. The MU-LV designation provides for the horizontal or vertical intermixing of commercial, visitor accommodations, residential, and/or civic uses. Civic uses may include a community center, public plazas, fire station and/or public parking.”

All existing provisions of Section 20.20.010 remain unchanged.



C. Amend Section 20.14.010 (Zoning Map Adopted by Reference) to change the zoning district as it relates to 3300 Newport Boulevard & 475 32nd Street only as depicted in the following diagram:



All related zoning maps or diagrams shall be amended to maintain consistency with the new zoning district as shown above. Additionally, any maps or diagrams within Zoning Code that label the site as "City Hall" shall be removed from the Zoning Map upon relocation of City Hall operations from the site to the new City Hall site located at 100 Civic Center Drive. Labeling the new City Hall site as "City Hall" on any Zoning Map or diagram is also authorized.



**D. Amend Subsection C of Section 20.22.020 (Mixed-Use Zoning Districts Land Uses and Permit Requirements) to add allowed uses and permit requirements for the new MU-LV zoning district within Table 2-9 as follows:**

TABLE 2-9 ALLOWED USES AND PERMIT REQUIREMENTS	Mixed-Use Zoning Districts			
	Permit Requirements			
	P	Permitted by Right		
	CUP	Conditional Use Permit (Section 20.52.020)		
	MUP	Minor Use Permit (Section 20.52.020)		
	LTP	Limited Term Permit (Section 20.52.040)		
—	Not allowed *			
Land Use	MU-W1 (5)(6)	MU-W2	MU-LV	Specific Use Regulations
See Part 7 of this title for land use definitions.				
See Chapter 20.12 for unlisted uses.				
Industry, Manufacturing and Processing, Warehousing Uses				
Handicraft Industry	P	P	P	
Industry, Marine-Related	P	P	—	
Research and Development	P	P	—	
Recreation, Education, and Public Assembly Uses				
Assembly/Meeting Facilities				
Small—5,000 sq. ft. or less (religious assembly may be larger than 5,000 sq. ft.)	CUP	CUP	MUP	
Commercial Recreation and Entertainment	CUP	CUP	P	
Cultural Institutions	P	P	—	
Parks and Recreational Facilities	CUP	CUP	P	
Schools, Public and Private	CUP	CUP	—	
Residential Uses				
Single-Unit Dwellings				
Located on 1st floor	—	—	—	
Located above 1st floor	P (1)	P (2)	—	Section 20.48.130
Multi-Unit Dwellings				
Located on 1st floor	—	—	P	
Located above 1st floor	P (1)	P (2)	P	Section 20.48.130
Two-Unit Dwellings				
Located on 1st floor	—	—	—	
Located above 1st floor	P (1)	P (2)	—	
Home Occupations	P	P (2)	P	Section 20.48.110
Care Uses				
Adult Day Care				
Small (6 or fewer)	P	P	P	
Child Day Care				
Small (8 or fewer)	P	P	P	Section 20.48.070
Day Care, General	—	MUP	—	Section 20.48.070

TABLE 2-9 ALLOWED USES AND PERMIT REQUIREMENTS	Mixed-Use Zoning Districts			
	Permit Requirements			
	P	Permitted by Right		
	CUP	Conditional Use Permit (Section 20.52.020)		
	MUP	Minor Use Permit (Section 20.52.020)		
	LTP	Limited Term Permit (Section 20.52.040)		
—	Not allowed *			
Land Use	MU-W1 (5)(6)	MU-W2	MU-LV	Specific Use Regulations
See Part 7 of this title for land use definitions.				
See Chapter 20.12 for unlisted uses.				
Retail Trade Uses				
Alcohol Sales (off-sale)	MUP	MUP	MUP	Section 20.48.030
Alcohol Sales (off-sale), Accessory Only	P	P	P	
Marine Rentals and Sales				
Boat Rentals and Sales	P	P	P	
Marine Retail Sales	P	P	P	
Retail Sales	P	P	P	
Visitor-Serving Retail	P	P	P	
Service Uses—Business, Financial, Medical, and Professional				
ATMs	P	P	P	
Emergency Health Facilities/Urgent Care	—	P	—	
Financial Institutions and Related Services (above 1st floor only)	P	P	P	
Financial Institutions and Related Services (1st floor)	—	—	P	
Offices—Business	P	P	P	
Offices—Medical and Dental (above 1st floor only)	—	P	—	
Offices—Profession	P	P	—	
Service Uses—General				
Animal Retail Sales	MUP	MUP	—	Section 20.48.050
Artists' Studios	P	P	P	
Eating and Drinking Establishments				
Accessory Food Service (open to public)	P	P	P	Section 20.48.090
Fast Food (no late hours) (3)(4)	P/MUP	P/MUP	P/MUP	Section 20.48.090
Fast Food (with late hours) (3)	MUP	MUP	MUP	Section 20.48.090
Food Service (no alcohol, no late hours) (3)(4)	P/MUP	P/MUP	P/MUP	Section 20.48.090
Food Service (no late hours) (3)	MUP	MUP	MUP	Section 20.48.090
Food Service (with late hours) (3)	CUP	CUP	CUP	Section 20.48.090
Take-Out Service—Limited (3) (4)	P/MUP	P/MUP	P/MUP	Section 20.48.090
Health/Fitness Facilities				
Small—2,000 sq. ft. or less	P	P	P	
Maintenance and Repair Services	P	P	P	
Marine Services				
Boat Storage	CUP	CUP	—	
Boat Yards	CUP	CUP	—	
Entertainment and Excursion Services	P	P	—	
Marine Service Stations	CUP	CUP	—	
Water Transportation Services	P	P	—	
Personal Services				
Massage Establishments	MUP	MUP	MUP	Chapter 5.50 Section 20.48.120
Massage Services, Accessory	MUP	MUP	MUP	Section 20.48.120
Nail Salons	P	P	P	
Personal Services, General	P	P	P	
Personal Services, Restricted	MUP	MUP	—	
Smoking Lounges	—	—	—	

TABLE 2-9 ALLOWED USES AND PERMIT REQUIREMENTS	Mixed-Use Zoning Districts			
	Permit Requirements			
	P	Permitted by Right		
	CUP	Conditional Use Permit (Section 20.52.020)		
	MUP	Minor Use Permit (Section 20.52.020)		
	LTP	Limited Term Permit (Section 20.52.040)		
	—	Not allowed *		
Land Use	MU-W1 (5)(6)	MU-W2	MU-LV	Specific Use Regulations
See Part 7 of this title for land use definitions.				
See Chapter 20.12 for unlisted uses.				
Visitor Accommodations				
Hotels, Motels, Bed and Breakfast Inns, and Time Shares	CUP	CUP	CUP	
Transportation, Communications, and Infrastructure				
Parking Facilities	MUP	MUP	MUP	
Communication Facilities	P	P	P	
Heliports and Helistops (7)	CUP	CUP	—	
Marinas	Title 17			
Marina Support Facilities	MUP	MUP	—	
Utilities, Minor	P	P	P	
Utilities, Major	CUP	CUP	CUP	
Wireless Telecommunication Facilities	Chapter 15.70			
Other Uses				
Accessory Structures and Uses	MUP	MUP	MUP	
Outdoor Storage and Display	MUP	MUP	MUP	Section 20.48.140
Personal Property Sales	P	P	P	Section 20.48.150
Special Events	Chapter 11.03			
Temporary Uses	LTP	LTP	LTP	Section 20.52.040
* Uses Not Listed. Land uses that are not listed in the table above, or are not shown in a particular zoning district, are not allowed, except as otherwise provided by Section 20.12.020 (Rules of Interpretation).				
(1) May only be located on lots with a minimum of two hundred (200) lineal feet of frontage on Coast Highway. Refer to Section 20.48.130 (Mixed-Use Projects) for additional development standards.				
(2) May only be located above a commercial use and not a parking use. Refer to Section 20.48.130 (Mixed-Use Projects) for additional development standards.				
(3) Late Hours. Facilities with late hours shall mean facilities that offer service and are open to the public past 11:00 p.m. any day of the week.				
(4) Permitted or Minor Use Permit Required.				
a. A minor use permit shall be required for any use located within five hundred (500) feet, property line to property line, of any residential zoning district.				
b. A minor use permit shall be required for any use that maintains late hours.				
(5) Approval of a minor site development review, in compliance with Section 20.52.080, shall be required prior to any development to ensure that the uses are fully integrated and that potential impacts from their differing activities are fully mitigated.				
(6) A minimum of fifty (50) percent of the square footage of a mixed-use development shall be used for nonresidential uses.				
(7) Applicants for City approval of a heliport or helistop shall provide evidence that the proposed heliport or helistop complies fully with State of California permit procedures and with any and all conditions of approval imposed by the Federal Aviation Administration (FAA), the Airport Land Use Commission for Orange County (ALUC), and by the Caltrans Division of Aeronautics.				

All existing provisions of Section 20.20.020 remain unchanged.

**E. Amend 20.22.030 (Mixed-Use Zoning Districts General Development Standards) to add development standards for the new MU-LV zoning district within Table 2-11 as follows:**

TABLE 2-11				
DEVELOPMENT STANDARDS FOR WATERFRONT MIXED-USE ZONING DISTRICTS				
Development Feature	MU-W1 (3)	MU-W2	MU-LV	Additional Requirements
Lot Dimensions (1)(2)	Minimum dimensions required for each newly created lot.			
Lot Area				
Mixed-use structures	20,000 sq. ft.	2,500 sq. ft.	20,000 sq. ft.	
Non-mixed-use structures	10,000 sq. ft.	2,500 sq. ft.	10,000 sq. ft.	
Lot Width				
Mixed-use structures	200 ft.	25 ft.	200 ft.	
Non-mixed-use structures	50 ft.	25 ft.	50 ft.	
Density (4)	Minimum/maximum allowable density range for residential uses.			
Lot area required per unit	Minimum: 7,260 sq. ft. per unit	Minimum: 1,631 Maximum: 2,167	N/A	
Floor Area Ratio (FAR) (5)			N/A	
Mixed-use development	Min. 0.35 and Max. 0.5 for nonresidential uses. Max. 0.5 for residential uses. (3) Max. 1.0 for mixed-use projects	Min. 0.35 and Max. 0.5 for nonresidential. Max. 0.75 for residential uses. Lido Marina Village Min. 0.35 Max. 0.7 for nonresidential and 0.8 residential.	99 dwelling units and 15,000 sf commercial (6)	
Nonresidential only	0.5 commercial only (3)	0.5 commercial only	99,625 sf of hotel (6)	
Setbacks	The distances below are minimum setbacks required for primary structures. See Section 20.30.110 (Setback Regulations and Exceptions) for setback measurement, allowed projections into setbacks, and exceptions.			
Front	0	0	Newport Boulevard: 0 ft. for below grade structures 20 ft. for structures up to 26 feet in height 35 ft. for structures over 26 feet in height	
Side	0	0	32nd Street: 0 ft. for below grade structures 0 ft. for structures up to 26 feet in height 10 ft. for structures over 26 feet in height	
			Interior: 0 ft. for below grade structures 5 ft for above grade structures	
Side adjoining a residential district	5 ft.	5 ft.	5 ft.	
Rear	0	0	5 ft.	
Rear residential portion of mixed use	N/A	5 ft.	5 ft.	
Rear nonresidential adjoining a residential district.	N/A	5 ft.	5 ft.	
Rear adjoining an alley	N/A	10 ft.	10 ft.	
Bulkhead setback	10 ft.	10 ft.	10 ft.	

TABLE 2-11				
DEVELOPMENT STANDARDS FOR WATERFRONT MIXED-USE ZONING DISTRICTS				
Open Space	N/A	N/A	20% of property	
Common open space	Minimum 75 square feet/dwelling unit. (The minimum dimension (length and width) shall be 15 feet.)			
Private open space	5% of the gross floor area for each dwelling unit. (The minimum dimension (length and width) shall be 6 feet.)			
Separation Distance	Minimum distance between detached structures on same lot.			
	10 ft.	10 ft.	0 ft.	
Height	Maximum allowable height of structures without discretionary approval. See Section 20.30.060 (Height Limits and Exceptions) for height measurement requirements. See Section 20.30.060(C) (Increase in Height Limit) for possible increase in height limit.			
	26 ft. with flat roof, less than 3/12 roof pitch		55 ft. with flat roof, less than 3/12 roof pitch (7)	
	31 ft. with sloped roof, 3/12 roof pitch or greater		60 ft. with sloped roof, 3/12 roof pitch or greater (7)	
Fencing	See Section 20.30.040 (Fences, Hedges, Walls, and Retaining Walls).			
Landscaping	See Chapter 20.36 (Landscaping Standards).			
Lighting	See Section 20.30.070 (Outdoor Lighting).			
Outdoor Storage/Display	See Section 20.48.140 (Outdoor Storage, Display, and Activities).			
Parking	See Chapter 20.40 (Off-Street Parking).			
Satellite Antennas	See Section 20.48.190 (Satellite Antennas and Amateur Radio Facilities).			
Signs	See Chapter 20.42 (Sign Standards).			
Notes:				
(1) All development and the subdivision of land shall comply with the requirements of Title 19 (Subdivisions).				
(2) The standards for minimum lot area and lot width are intended to regulate sites for development purposes only and are not intended to establish minimum dimensions for the creation of ownership or leasehold (e.g., condominium) purposes.				
(3) A minimum of fifty (50) percent of the square footage in a mixed-use development shall be used for nonresidential uses.				
(4) For the purpose of determining the allowable number of units, portions of legal lots that are submerged lands or tidelands shall be included in land area of the site.				
(5) Portions of legal lots that are submerged lands or tidelands shall be included in the net area of the lot for the purpose of calculating the allowable floor area of structures.				
(6) Any combination of dwelling units and hotel rooms provided it does not exceed 99 dwelling units or 99,675 sf of hotel use. Municipal facilities are not restricted by or included in any development limit.				
(7) Architectural features such as domes, towers, cupolas, spires, and similar structures may exceed 55 feet by 10 feet.				

All existing provisions of Section 20.20.030 remain unchanged.

ADDITIONAL  
MATERIALS  
RECEIVED

# City Hall Reuse Amendments

3300 Newport Boulevard and 475 32<sup>nd</sup> Street



Planning Commission  
January 17, 2013

STAFF PRESENTATION (PA2012-031)





# Current Site Information



## Site Size

4.26 acres gross  
3.96 acres net  
(approximately)

## Building Area

54,000 sq. ft.  
(includes  
fire station #2)

## Designated

"Public Facilities"





# Background



- July 2010 - Planning in Lido Village begins
- January 2011 - City Council approved a new vision for Lido Village "Alternative 5B" plan
- January 2012 - City Council approved Lido Village Design Guidelines
- June 2012 - City Council initiates land use amendments for City Hall property

# General Plan Amendment



- Existing land use – Public Facilities
- Proposed land use – Mixed Use (MU-H5)

“The MU-H5 designation provides for the horizontal or vertical intermixing of commercial, visitor accommodations, residential, and/or civic uses. Civic uses may include, but are not limited to, a community center, public plazas, a fire station and/or public parking.”

# General Plan Amendment



- 99 dwelling units and 15,000 square feet of commercial or 99,625 square feet of hotel
- Any combination of dwelling units and hotel rooms provided it does not exceed 99 dwelling units or 99,675 sf of hotel use.
- Accessory commercial floor area is allowed and municipal facilities are not restricted or included in any development limit.

# Coastal Land Use Plan Amendment



- Existing land use – Public Facilities
- Proposed land use – Mixed Use (MU)

“The MU category is intended to provide for the development a mix of uses, which may include general, neighborhood or visitor-serving commercial, commercial offices, visitor accommodations, multi-family residential, mixed-use development, and/or civic uses.”

# Coastal Land Use Plan Amendment



- **Amend Policy 4.4.2-1** to potentially allow:

“Buildings and structures up to 55 feet in height, provided it is demonstrated that development does not negatively impact public views. Peaks of sloping roofs and elevator towers may exceed 55 feet by up to 5 feet and architectural features such as domes, towers, cupolas, spires, and similar structures may exceed 55 feet by 10 feet. The purpose of allowing buildings, structures and architectural elements to exceed 35 feet is to promote vertical clustering resulting in increased publically accessible on-site open space and architectural diversity while protecting existing coastal views and providing new coastal view opportunities.”

# Zoning Code Amendment



- Amend Sections 20.14.020, 20.22.010, and 20.14.010 to create and apply the **MU-LV** zoning district to the site.

“The MU-LV designation provides for the horizontal or vertical intermixing of commercial, visitor accommodations, residential, and/or civic uses. Civic uses may include a community center, public plazas, fire station and/or public parking.”

# Zoning Code Amendment



- Amend Section 20.22.020 to establish allowed uses and permit requirements for the MU-LV zone.
- Amend Section 20.22.030 to establish development standards for the MU-LV zone.

Open Space	20% of net acreage	
Setbacks	Newport Boulevard: 20 ft. for buildings up to 26 ft. 35 ft. for taller structures	32 <sup>nd</sup> Street: 0 ft. for buildings up to 26 ft. 10 ft. for taller structures
Building Height	55 feet, 60 feet for sloping roofs, and 65 feet for architectural features	

# California Environmental Quality Act (CEQA)



- Mitigated Negative Declaration Prepared – 30-day comment period provided (11/26/2012-12/26/2012)
- Programmatic Mitigation Measures recommended
- Mitigation Monitoring and Reporting Program
- Three comment letters received and written responses prepared for consideration
- Less than significant impact with approval of amendments



# California Environmental Quality Act (CEQA)



- Aesthetics concerns
  - Public views
  - Shade/Shadow
- Traffic concerns
  - Peak hour trips reduced
  - Hotel use would increase daily trips (277)
  - Residential use would decrease daily trips (-462)
- Water/Sewer
  - Deemed adequate by Municipal Operations for either residential or hotel use

# Other Considerations



- Measure S – No vote of the electorate
- Required Native American Tribal Consultation complete, monitoring services offered if necessary; however, no resources are anticipated
- Future development project requires noticed public hearing, planning, traffic engineering and environmental review

# Next Steps



- City Council – February 12, 2013 (tentative)
- Coastal Commission review of CLUP amendment will take 8-15 months (schedule to be determined)
- Future development project design and approval is a separate and ongoing process

# QUESTIONS?



For more information contact:

**Kim Brandt**, Community Development Director      or  
949-644-3228  
kbrandt@newportbeachca.gov

**James Campbell**, Principal Planner  
949-644-3210  
jcampbell@newportbeachca.gov

[www.newportbeachca.gov](http://www.newportbeachca.gov)

PLEASE DISTRIBUTE AND ENTER INTO THE PUBLIC RECORD

TO: CITY OF NEWPORT BEACH- PLANNING COMMISSION

FROM: Denys Oberman- resident and stakeholder

COMMENTS- January 17,2013 PLANNING COMMISSION AGENDA:

PUBLIC HEARING ITEM #4: Existing City Hall Complex Reuse Amendments PA 2012-031

Staff has submitted a Mitigated Negative Declaration(MND) in connection with the proposed amendments to the General Plan, Coastal Land Use Plan, and Zoning Code to change the Land Use and zoning designation from "Public Facilities" to "Mixed Use". The amendment proposes to include additional land use and development standards to facilitate a "future mixed use project" that could include up to 99 apartments, 15,000 sq. feet of retail commercial area, and up to 99,675 sq ft. of hotel uses.

I have reviewed the MND document, the comments of R. Hawkins and the Coastal Commission analyst, and related responses. There are numerous inconsistencies and flaws in logic in the MND and staff's proposed Amendments, which I summarize briefly below.

1. The Design Guidelines , as staff points out, are NOT a regulatory document. Furthermore, they do not properly reflect the input or desires of the community. The Guidelines are NOT a Master Plan or any other binding document, and should not be relied upon for any planning or development recommendation.  
These Guidelines should not be referenced or relied upon by the Planning Commission , decision making body, the public, or potential developer, as they would be misleading.
2. At some points, the MND recites that the proposed Amendments have no material environmental impact. There is with certainty, significant environmental impact associated with ANY of the proposed reuses. If for no reason other than the scale inherent in any of the contemplated reuses, in combination with the fact that the site is in the Coastal zone, there will environmental impacts that need to be identified and assessed, and for which mitigation needs to be defined. The Environmental Impact discussion is inadequate .

There are certain types of Environmental impact which will occur regardless of the specific ultimate use/mix of uses. These can certainly be studied and mitigation proposed based on a range of intensification and character of use:

- A) Traffic levels and flow- there can be no doubt that the entire area's ingress and egress will be impacted by the proposed Use/s. There are dense, residential neighborhoods in close proximity. After the city's declaring that density should be reduced for safety, traffic flow, and aesthetics, the City has allowed Increased density in the area over the past 5-6 years. While the proposed reuse provides significant economic and social benefit to the city, the community and the public, and affords continued access to the coastal access, it adds to the already-existing need to improve

roadways and traffic circulation plans. This is true both to support commerce and recreation and daily life activities of visitors, and those of local residents and merchants.

A large residential use such as that proposed will require more traffic mitigation and parking accommodation than a Hotel use.

We believe that it is important for the Planning Commission to take a lead in assuring careful study and guidance regarding the preferred Use direction to the City Council.

- B) Water/sewer-The additional requirement needs to be studied with mitigation plan, to assure adequate infrastructure and service.
- C) Height restrictions- To optimize the land asset, and provide open space, the recommendation to grant additional Height is, we believe, a sound land use and environmental planning proposal. There are no current residences where coastal scenic views would be obstructed as the result of a 6-7 story building. Nonetheless, a shade study should be done.

Other areas of environmental impact also need to be diligently assessed to assure CEQA compliance, and prevent unnecessary costly delays or change of direction later in the process.

We request that the Commission deny approval of the proposed MND, and remand to staff to redo, along with consideration of a proper Amendment to the General and area's Specific Plan.

Thank you.

## LAW OFFICES OF ROBERT C. HAWKINS

January 17, 2013

Via Facsimile Only

Michael L. Toerge, Chair  
Members of the Planning Commission  
c/o James E. Campbell, Principal Planner  
Department of Community Development  
City of Newport Beach  
3300 Newport Blvd.  
Newport Beach, California 92663

Re: **Further Comments on the Final Mitigated Negative Declaration ("FMND") for the City Hall Reuse Project (the "Project").**

Greetings:

Thank you for the opportunity to comment on the captioned matter. This firm represents Friends of Dolores, a community action group dedicated to ensuring compliance with state and local laws including the California Environmental Quality Act, Public Resources Code sections 21000 et seq., Friends of City Hall, a community action group dedicated the preservation of the "City Hall" site for civic purposes, and others in the City in connection with the captioned matter.

We have commented on the captioned DMND and offer these comments on the captioned document.

First, please note that, in our December 26, 2012 letter on the captioned Project and MND, we requested notices in connection with the captioned matter. Also, because we commented on the Project and the DMND, state law requires that the City provide us with a copy of the response to, at least, our comments. The City has done none of this: we did not receive any notice of this hearing; and we did not received a copy of the response to our comments. Because of this lack of notice, we are not prepared this hearing and request a continuance of two weeks so that we can submit full and complete comments on the FMND. We offer these partial comments and will prepare full comments for the continued hearing.



Michael L Toerge, Chair  
Members of the Planning Commission

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January 17, 2013

Second, the FMND states that "Mr. Robert C. Hawkins" submitted comments on the DMND. That is incorrect. As indicated in Letter No. 3, this office represents several community groups also listed above. I am not making these comments personally. I am required to state the clients and have complied.

Third, we appreciate that the City decided to print the responses to comments in non-italicized font. As is obvious, it is much easier to read. Response to Comment No. 1 recognizes that the DMND was circulated in a non-"normal" font, italics. Because of this, the DMND should be recirculated for public review and comment in this normal font so that the public can easily and fully review the DMND. The italicized DMND is the same as printing it in hieroglyphics or some other foreign language: it failed to perform its required informational purpose under CEQA. Because of this, the City must reformat the DMND and recirculate it for public review and comments.

Fourth, many of the responses to our comments noted that the Project is a programmatic one which includes a General Plan Amendment, Zone Change, and an amendment to the Local Coastal Land Use Plan. However, given that the City has undertaken environmental review at this point, the analysis must include an analysis of impacts under the reasonable worst case scenario. Planning & Conservation League v. Castaic Lake Water Agency (2009) 180 Cal. App. 4th 210, 252. That is, when the Project would allow a sixty foot building, then the environmental analysis must include discussion of the shade impacts of the Project and other impacts under the "reasonable worst case scenario."

Further, as indicated in our comments on the DMND, the FMND is simply attempting to defer analysis of the Project's impacts and mitigation. Deferral of environmental analysis violates CEQA. For instance,

"By deferring environmental assessment to a future date, the conditions run counter to that policy of CEQA which requires environmental review at the earliest feasible stage in the planning process."

Sundstrom v. County of Mendocino (1988) 202 Cal. App. 3d 296, 308. See Bozung v. Local Agency Formation Com. (1975) 13 Cal.3d 263, 282 (holding that "the principle that the environmental impact should be assessed as early as possible in government planning."); Mount Sutro Defense Committee v. Regents of University of California (1978) 77 Cal. App. 3d 20, 34 (noting that environmental problems should be considered at a point in the planning process "where genuine flexibility remains"). CEQA requires more than a promise of analysis and mitigation of significant impacts: it requires actual analysis and mitigation measures that really minimize an identified impact.

Further, the City cannot defer mitigation:

"Deferral of the specifics of mitigation is permissible where the local entity commits itself to mitigation and lists the alternatives to be considered, analyzed and possibly incorporated in the mitigation plan. (Citation omitted.) On the other hand, an agency goes too far when it simply requires a project applicant to obtain a biological report and then comply with any recommendations that may be made in the report. (Citation omitted.)"



Michael L. Toerge, Chair  
Members of the Planning Commission

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January 17, 2013

Defend the Bay v. City of Irvine (2004) 119 Cal. App. 4th 1261, 1276.

The FMND attempts improperly to defer both environmental analysis and mitigation. The City cannot simply propose vague and programmatic measures now and then promise further analysis. We have seen similar promises broken again and again.

More importantly, both the General Plan and the Local Coastal Land Use Plan include height restrictions and policies to limit heights. The FMND fails to analyze the Project's impacts on these restrictions and policies. For instance, Land Use Element Policy LU 5.1.2 which concerns "Compatible Interfaces" states:

"Require that the height of development in nonresidential and higher density residential areas transition as it nears lower density residential areas to minimize conflicts at the interface between the different types of development."

The Project conflicts with this Policy and the FMND fails to explain the impact and provide adequate mitigation.

Likewise, the Local Coastal Land Use Plan Policy No. 2.7-1 requires:

"Continue to maintain appropriate setbacks and density, floor area, and height limits for residential development to protect the character of established neighborhoods and to protect coastal access and coastal resources."

The Project fails to maintain height limits and will have the potential to create significant impacts on land use, aesthetics, air quality and others by inserting this sixty foot structure in an area of low rise commercial and residential structures.

Fifth, as to the shade analysis, Response to Comment No. 22 fails to provide any rationale for failing to include a shade analysis. Comment No. 22 notes that the DMND fails to include the necessary shade analysis to determine fully the aesthetic impacts on the Project with its sixty foot structure. The Response states that:

"The City Hall project site is located in a mixed use area where the predominant land uses in the immediate vicinity do not include residential uses. As a result, a shade/shadow study was not conducted."

FMND, Responses to Comments, page 12(sic). This is incorrect. Residential uses surround the Project site: across 32d Street, there is a mixed use residential development; across the channel, Newport Island residents would be affected; outdoor restaurants in the vicinity would be affected including those across Newport Blvd. and those in Via Lido shopping center. Further, the DMND states in Section 2.1 that one of the reasons that the Project is compatible with the area is that the City anticipates receipt of application for multifamily uses in the vicinity.



Michael L Toerge, Chair  
Members of the Planning Commission

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Moreover, the FMND is incorrect that shade analysis is only necessary for residential uses. However, the City has Policy K-3 which is entitled "Implementation Procedures for the California Environmental Quality Act." K-3 contains no such restriction that shade impacts shall only be considered when a project is in the immediate vicinity of residential uses.

Indeed, the Draft EIR for the Wilshire Grand Redevelopment Project included a shade analysis due to shadow sensitive uses which include residential uses but also include recreational uses, outdoor restaurants, and other uses where shadows create impacts.

Here, the Project site is surrounded by shadow sensitive uses which require an analysis of the Project's shade impacts on these uses. The City should revise the analysis as and EIR which would fully analyze all facets of the Project, its impacts and mitigation and its alternatives.

Sixth, interestingly, Policy K-3 includes a provision that recognizes that the Project may create a potentially significant impact and requires the preparation of an EIR. Policy K-3 at Paragraph D (Environmental Determinations) subparagraph 3 (Initial Studies), states:

"In addition, the following shall be considered in determining whether or not a project may have a significant impact, in view of the particular character and beauty of Newport Beach:

"a. A substantial change in the character of an area by a difference in use, size or configuration is created."

The Project hits all three areas of significance: the Project will result in a substantial and adverse change in the character of the area by the introduction of a new use on the Project site: residential uses; the Project will result in a substantial and adverse change in the character of the area by the introduction of a new and substantially larger residential building; and the Project will result in a substantial and adverse change in the character of the area by the introduction of a new configuration and the elimination of substantial surface public parking in the area. The Project site may have a significant impact on the environment by creating a substantial change in the character of the Project site by a difference in use, size and configuration. Policy K-3 requires the preparation of an EIR.

Now, we know that the City Council can change or ignore these policies at will, but the Planning Commission and staff cannot. Moreover, the standard identified above is not simply a City standard; it is a CEQA standard. Public Resources Code section 21068.5. That is, because of the Project's substantial and adverse change in use, size and configuration, the Project has the potential to create significant and adverse impacts on the environment. This CEQA requirement and that of Policy K-3 requires that the City prepare an EIR for the Project.

Eighth, although the FMND recognizes that the Lido Village Design Guidelines are not regulatory and have not regulatory effect, the FMND still regards them as regulatory and relies on the Guidelines to show that the Project will have no impacts. For instance, Comment No. 15 raises the issue regarding the non-regulatory effect of the Guidelines and quotes Resolution No. 2012-4 which states that they are non regulatory. The Response to Comment No. 15 states in part:



Michael L Toerge, Chair  
Members of the Planning Commission

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"The characterization in the Draft IS/MND that the guidelines as regulatory in nature was unintentional. Rather, the discussion of the Lido Village Design Guidelines was (sic) intended to illustrate that future development must be found to be consist (sic) with the design guidelines for approval. Development of the redevelopment/reuse plan in accordance with the guidelines will promote the vision that is described in the Lido Village Design Guidelines through site planning/design and architectural compatibility."

Responses to Public Comments, page 10 (sic) (emphasis supplied). So, Comment No. 15 quoted a section in the DMND which said that the Guidelines are regulatory and that the Project must comply with them. The Response does not correct this error; it recognizes it and says it is unintentional(?).

That is not the point. The FMND and Response to Comment No. 15 continues to regard the Guidelines as regulatory. The second sentence quoted above displays this incorrect application of the Guidelines: if development "must be found to be consist[ent] with the design guidelines for approval," then the FMND incorrectly regards the Guidelines as regulations. That is wrong. Rather, the correct description of the Guidelines and the Project is that the Guidelines are part of the Project and require their own environmental review to stand as regulations. The City should prepare an EIR to analyze the full Project: the Project and the Guidelines.

Or again, Response to Comment No. 16 shows that the FMND regards the Guidelines as regulatory in the same fashion as the General Plan and the Local Coastal Land Use Plan:

"Therefore, consistency with the LVDG, in addition to the long-range goals and policies articulated in the Newport Beach General Plan and Coastal Land Use Plan support, land use compatibility and the conclusion that potential impacts would be less than significant."

The General Plan and the Local Coastal Land Use Plan are regulatory and have undergone their own environmental review. The Guidelines have not. Therefore, consistency with the Guidelines does not ensure any environmental compliance at all.

More importantly, as noted above, the Project does not comply with the General Plan, the Zoning Code, and the Local Coastal Land Use Plan. The Project includes amendments to all three. Therefore, the appropriate environmental analysis must discuss all potentially significant impacts and propose adequate mitigation.

In conclusion, the FMND is totally inadequate. Good and sound policy reasons and good planning require the preparation of an EIR. Such an EIR would analyze all impacts including shade impacts, would include adequate mitigation, would include a discussion of Project alternatives which is necessary for the Project to go forward, and would allow the City to override any significant unmitigated impacts.

Item No. 4b: Additional Materials  
Planning Commission January 17, 2013  
Existing City Hall Complex Reuse

Michael L. Toerge, Chair  
Members of the Planning Commission

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January 17, 2013

Thank you, again, for the opportunity to comment on the FMND. As before and although ignored for this hearing, **PLEASE PROVIDE US WITH NOTICE OF ANY RESPONSES TO THESE COMMENTS IN A NON-ITALICIZED FORMAT AND WITH NOTICES OF ANY AND ALL HEARINGS ON THE CAPTIONED PROJECT AND FMND.**

Of course, should you have any questions, please do not hesitate to contact me.

Sincerely,

OFFICES OF ROBERT C. HAWKINS

By: Robert C. Hawkins

RCII/kw

cc: Leilani Brown, City Clerk (Via Facsimile Only)